

ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC

STUDIES IN TRADE AND INVESTMENT

48

**ACCESSION TO
THE WORLD TRADE
ORGANIZATION:**

***ISSUES AND
RECOMMENDATIONS
FOR CENTRAL ASIAN
AND CAUCASIAN
ECONOMIES IN
TRANSITION***



UNITED NATIONS

ESCAP STUDIES IN TRADE AND INVESTMENT

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***ISSUES AND RECOMMENDATIONS
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IN TRANSITION***

Proceedings and papers presented at the Subregional
Workshop on Accession to the World Trade Organization,
Economies in Transition, Tashkent, 25-27 July 2001



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FOREWORD

In today's world characterized by increasing economic integration and globalization, accession to the World Trade Organization (WTO) has figured prominently among the policy priorities of most developing countries and countries with economies in transition. With regard to the economies in transition, it was realized that accession to the WTO would send a strong positive message to the world that they were open for business and had virtually completed the transition from centrally-planned economies to full-fledged market economies. This, in turn, would boost their exports and inflows of foreign direct investment. The countries of Central Asia and the Caucasus region, all once part of the former Soviet Union, are no exception and indeed, most recently two of them, Georgia and Kyrgyzstan, along with Mongolia, already acceded to the WTO. For the other countries, they are all in various stages of the accession process with the exception of Turkmenistan which has yet to submit its formal application for WTO membership.

It has been no secret that the accession process has led to quite a few frustrations and has been rather problematic. While Georgia and Kyrgyzstan managed to complete the accession process in record time, there are now voices arguing that these two countries did not get a fair deal and may have made too many concessions under pressure. Others argue that, while the concessions made for WTO membership are certainly painful, swift accession prevented the submission of further demands from WTO members, and allowed the two countries to participate in the working parties for the accession of major trading partners, such as China, and would ensure their full participation in a possible new multilateral round of trade negotiations. For all countries, it is understood that the long-term benefits of WTO membership far outweigh the costs. However, an analysis in some detail of the problems and issues related to the accession process, including the experiences of countries which completed successful accession, would go far in preparing other countries with similar economic structures, i.e. economies in transition, for the tough multilateral and bilateral negotiations which precede any accession and allow them to be better able to balance demands from WTO members with their own national interests.

For this purpose, the Economic and Social Commission for Asia and the Pacific (ESCAP) organized the Subregional Workshop on Accession to WTO – Economies in Transition for Central Asian and Caucasian Economies in Tashkent, Uzbekistan in cooperation with the Ministry of Foreign Economic Relations of the Government of Uzbekistan, the United Nations Conference on Trade and

Development (UNCTAD) and the WTO with generous financial support from the Government of Japan. This publication presents the recommendations of the workshop, the country papers presented at the workshop and a summary synthesis paper prepared by the ESCAP Secretariat.

The studies share a general conclusion that the accession process is long and arduous and requires full commitment from the Government and allocation of the necessary resources for all stages of the accession process including data and information collection and translation for the Memorandum and attending the numerous negotiation sessions among others. The studies are also in complete agreement with regard to the need to acquire the necessary and specialized skills to undertake the negotiations and cope with the implementation of the required legislative changes as part of the WTO membership.

With this publication, we at ESCAP hope to have contributed to the general understanding of the WTO accession process and assisted not only countries with economies in transition but all other countries as well currently in the accession process or contemplating to start the membership application formalities in their efforts to become WTO members in the most effective and efficient manner.

ABBREVIATIONS

ACV	Agreement on Customs Valuation
AMS	Aggregate measures of support
BSEC	Black Sea Economic Cooperation
CAEU	Central Asian Economic Union
CCC	Customs Cooperation Council
CEELI	The American Bar Association Central and East European Law Initiative
CEPRA	Center for Economic Policy Research and Analysis
CIDA	Canadian International Development Agency
CIS	Commonwealth of Independent States
CRTA	Committee on Regional Trade Agreements
CSTI	Chief State Tax Inspectorate
CTPL	Centre for Trade Policy and Law
CU	Customs Union
EAEC	Eurasian Economic Community
EASC	Euro-Asian Council for Standardization, Metrology and Certification
EBRD	European Bank for Reconstruction and Development
ECE	Economic Commission for Europe
ECO	Economic Cooperation Organization
ECOSOC	Economic and Social Council
EIU	Economic Intelligence Unit
ESCAP	Economic and Social Commission for Asia and the Pacific
EU	European Union
EUTELSAT	European Telecommunications Satellite Organization
FAO	Food and Agriculture Organization of the United Nations
FXB	Foreign Exchange Bureau
FDI	Foreign direct investment
FSU	Former Social Union
FTAs	Free trade area/Free trade agreements
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	Gross domestic product
GPA	Government procurement agreements

HS	Harmonized system
IBRD	International Bank for Reconstruction and Development
IC	Information Centre
ICAO	International Civil Aviation Organization
IDA	International Development Association
IEC	International Electrotechnical Commission
IFAD	International Fund for Agricultural Development
IFC	International Finance Corporation
IFE	Interbank Foreign Exchange
IMF	International Monetary Fund
IMO	International Maritime Organization
INMARSAT	International Maritime Satellite Organization
IOM	International Organization for Migration
IPR	Intellectual Property Rights
IRIS	Center of Institutional Reform and the Informal Sector
IRTO	International Road Traffic Organization
ISO	International Standard Organization
ITC UNCTAD/WTO	International Trade Centre UNCTAD/WTO
ITU	International Telecommunications Union
MFN	Most-favoured nation
MIGA	Multilateral Investment Guarantee Agency
NGO	Non-Governmental Organization
NTR	Normal trading relations
OIE	Office International Des Epizooties
OSCE	Organization for Security and Cooperation in Europe
PCA	Partnership and Cooperation Agreement
PSI	Pre-shipment inspection
RTA	Regional trading arrangement
S&D	Special and differential
SAFI	State Agency for Foreign Investment
SBT	State Bank of Turkmenistan
SCRME	State Commodity and Raw Materials Exchange (Turkmenistan)
SFTC	State Foreign Trade Companies
SMEs	Small- and medium-sized enterprises
SPS	Sanitary and phytosanitary

TACIS	Technical Assistance to US (European Union)
TBT	Technical barriers to trade
TICEX	Tbilisi Interbank Currency Exchange
TNCs	Transnational corporations
TRIPs	Trade-related aspects of intellectual property rights
TSE	Turkish Standards Institution
UNCITRAL	United Nations Commission on International Trade Law
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNEP	United Nations Environmental Programme
UNIDO	United Nations Industrial Development Organization
UPOV	International Union for the Protection of New Varieties of Plants
UPU	Universal Postal Union
USAID	United States Agency for International Development
VAT	Value-added tax
WFP	World Food Program
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

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I. RECOMMENDATIONS OF THE SUBREGIONAL WORKSHOP ON ACCESSION TO WTO – ECONOMIES IN TRANSITION

The Subregional Workshop on Accession to WTO – Economies in Transition, was convened in Tashkent from 25 to 27 July 2001. The experts and representatives of countries and international organizations participating in the workshop, expressed the following opinions:

1. Before starting the accession process, countries aspiring WTO membership should be prepared to go through a rigorous and demanding exercise, make changes in their legal and institutional framework, and implement major structural economic reforms. Political will and commitment are an absolute requirement for smooth and successful accession.
2. During the accession process, acceding countries should make active use of their observer status to get experienced with Working Party proceedings and negotiations and understand the kind of demands and questions they will face when it is their turn.
3. Countries aspiring WTO membership should mobilize the necessary resources, both financial and in kind, to cover expenses associated with the accession process, including attendance of meetings, missions to Geneva and bilateral missions, preparation of memorandum of foreign trade regime, adjustments in national legal and institutional framework, costs of translation services, and revenue foregone as a result of concessions made. A realistic cost analysis should be undertaken before starting the accession process.
4. Countries negotiating WTO membership should demonstrate their willingness to participate in the world trading system by making legislative changes, e.g. in areas like intellectual property rights, and tariff concessions. Transparency and predictability should be the guiding principles for legal reform. However, care should be taken to balance the degree of liberalization before the accession process with the degree of leverage required in the negotiations.

5. Ample attention should be paid to appropriate human resources development. Countries aspiring WTO membership need to get together a solid and competent trade negotiating team. They should take active part in trade policy and other WTO-related courses organized by WTO and other multilateral organizations; specialist knowledge and expertise for each specific WTO Agreement need to be developed.
6. Before starting the negotiations, acceding countries need to consolidate their positions and clearly define boundaries beyond which no further concessions are possible; in this context, acceding countries need to be aware of and fully understand all implications, both short- and long-term, of commitments, obligations and concessions demanded from WTO members for national economic development before making important decisions and binding commitments.
7. Acceding countries should proceed with the accession process at a sustainable pace while recognizing that undue delays may result in additional and stricter demands from WTO members.
8. A national consensus among and engagement of all concerned parties in the accession process, particularly the private sector, should be ensured before and during the accession process to build maximum support and avoid internal problems at a later stage. Governments should launch active public awareness campaigns through the media and otherwise about the WTO, its agreements, accession and implications of membership. Effective cooperation among the executive and legislative branches of government and effective public/private sector partnerships are also essential for a smooth accession process.
9. Acceding countries should establish the proper institutional framework for the accession process, ideally consisting of one single body or committee consisting of senior officials of all concerned government bodies, ministries and agencies. Such a body would coordinate all government work related to the accession process and WTO issues in general.
10. Acceding countries should anticipate problems associated with the implementation and enforcement of WTO obligations and commitments and new and revised laws and regulations and design appropriate measures to address those problems in a timely manner.
11. Information centres on WTO and specialized areas such as standardization, sanitary and phyto-sanitary measures, services,

II. ISSUES IN ACCESSION TO WTO FOR ECONOMIES IN TRANSITION IN CAUCASUS AND CENTRAL ASIA: AN OVERVIEW¹

A. Introduction

The World Trade Organization (WTO) was established in 1995 as a result of the conclusion of the Uruguay Round of multilateral trading negotiations. It constitutes the institutional manifestation of a rules based system for international trade which has been evolving ever since the establishment of the General Agreement on Tariffs and Trade (GATT) in the wake of the Second World War, but also strengthens existing international disciplines on trading practices and creates new obligations in areas such as agriculture, intellectual property protection, and investment. International trade has been growing rapidly over the last 50 years, Merchandize exports have grown at an annual average rate of 6 per cent. Total trade in 1997 was 14 times the level of 1950. This rapid growth has been due to a large extent to the globalization process and concomitant liberalization drive. As a result, countries have been increasingly integrated in the international trading system with the fall of trade barriers.

At the conclusion of the 1986-1994 Uruguay Round, agreements had been signed in various areas and product groups, totaling about 60 including separate commitments (called schedules), covering most of the old GATT rules but adding new commitments to tariff reductions and obligations in sensitive areas such as textiles, clothing and agriculture. The Uruguay Round also created new rules for dealing with trade in services, relevant aspects of intellectual property, investment, dispute settlement, and trade policy reviews. Since the Uruguay Round, additional agreements have been negotiated and signed in the areas of telecommunications, information technology and financial services. The WTO oversees and administers all agreements.

The WTO has more than 130 members, accounting for over 90 per cent of world trade. Twenty-nine others are negotiating membership. Most of the members are founding members while others have acceded since then. Among the economies in transition in the Caucasus and Central Asia, only Kyrgyzstan and, most recently, Georgia, are members. Armenia, Azerbaijan, Kazakhstan and Uzbekistan are in

¹ Based on a paper prepared by the International Trade and Industry Division, ESCAP.

advanced stages of accession, while Tajikistan has only recently formally applied and Turkmenistan has yet to submit an application.

This paper explores the experiences of the economies in transition in the accession process and seeks to document the main problems and obstacles which those countries have encountered and other issues which have arisen during the accession process. Section B describes the accession process in some detail. Section C will provide an overview of the trade situation and trade policies in the countries concerned while Section D will document the experiences with focus on problems and obstacles of the countries concerned, while Section E will summarize some major recommendations for countries in accession.

B. Accession to the WTO: the process

Article XII of the Marrakesh Agreement Establishing the World Trade Organization (the WTO Agreement) deals with accession. The full text of this provision is as follows:

- “1. Any State of separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO. Such accession shall apply to this Agreement and the Multilateral Trade Agreements annexed hereto.
2. Decision on accession shall be taken by the Ministerial Conference. The Ministerial Conference shall approve the agreement on the terms of accession by a two-thirds majority of the members of the WTO.
3. Accession to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement”.

WTO Article XII is remarkably brief and gives no guidance on the “terms to be agreed” which is left to the negotiations between the members and the acceding country.

The WTO accession process includes both formal and informal steps. An acceding country will be joining an agreement that has mostly common obligations but that also has some important provisions (such as tariff commitments and services) which are country specific or relate to a specific customs area. The negotiations for accession basically comprise of negotiation of satisfactory schedules, acceptance of common obligations, and, if appropriate, determination of transition

rules. In return for these commitments, the acceding country receives the benefits of all the similar commitments that existing members have already made. The accession process may be considered to consist of seven main steps:²

1. Preparations for application
2. Formal Application (Notification)
3. Working Party Formation
4. Preparation of the Foreign Trade Regime Memorandum by the Acceding Country
5. Questions and Comments from Existing Members
6. Negotiations
 - (a) Market Access
 - (b) Membership status
 - (c) Transition rules
7. Draft Protocol and Vote

1. Preparations for application

There are not many formal legal provisions for accession to the WTO Agreement.³ Article XII.1 of the WTO Agreement indicates that any state or separate customs territory may accede to the Agreement “on terms to be agreed between it and the WTO”. Generally, aspiring members will first become observers, a status intended to allow governments to become familiar with WTO requirements and the accession process. Acceding countries must accede to the WTO Agreement in its entirety, including all the agreements contained in the Annexes (Table 1).⁴ However, existing members and acceding countries have the option to exclude application of the WTO Agreement to particular members by invoking the “non-application” provision of Article XIII of the WTO Agreement.

A country wishing to become a WTO member routinely starts the process with informal notification and consultation with the Secretariat of the WTO. Training may be required to prepare the country for WTO membership and familiarize itself with the requirements of the application process, the functioning and processes of the WTO, the WTO Agreements, and implications of membership of the country.

² Adapted from: “Accession to the World Trade Organization (WTO) Concept Paper, August 7, 1995, The American Bar Association Central and East European Law Initiative (CEELI).

³ Accession to the WTO Agreement would automatically lead to WTO membership.

⁴ The only exceptions are the four “plurilateral” agreements regarding civil aircraft, government procurement, dairy goods, and bovine meat. An acceding country may accept or reject these agreements according to the terms of the agreements themselves. See Article XII.3 of the WTO Agreement.

Table 1. Agreements contained in the Annexes to the WTO Agreement

Annex	Agreement
1A	Multilateral Agreements on Trade in Goods
	(i) General Agreement on Tariffs and Trade 1994
	(ii) Agreement on Agriculture
	(iii) Agreement on Sanitary and Phytosanitary Measures
	(iv) Agreement on Textiles and Clothing
	(v) Agreement on Technical Barriers to Trade
	(vi) Agreement on Trade-Related Investment Measures (TRIMS)
	(vii) Agreement on Implementation of Article VI (Anti-Dumping)
	(viii) Agreement on Implementation of Article VII (Customs Valuation)
	(ix) Agreement on Pre-shipment Inspection
	(x) Agreement on Rules of Origin
	(xi) Agreement on Import Licensing Procedures
	(xii) Agreement on Subsidies and Countervailing Measures
	(xiii) Agreement on Safeguards
1B	General Agreement on Trade in Services (GATS)
1C	Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
2	Understanding on Rules and Procedures Governing Settlement of Disputes
3	Trade Policy Review Mechanism
4	Plurilateral Trade Agreements

There is a special course for officials from economies in transition offered by WTO. At the same time, the WTO Secretariat is allowed to understand the economy and existing trade regime and policies of the acceding country. For that purpose, the Secretariat, may, at the request of the acceding country, send a trade delegation to the acceding country. The acceding country is also recommended to start informal negotiations with the other WTO Member Countries to assess political support and the positions of the other members.

2. Formal application (notification)

When the acceding country is ready to begin the formal accession process, a formal application for WTO membership (request for accession) is filed with the Director-General, who forwards the application to the General Council for consideration at its next regular meeting. At least 10 days' notice of the application is required before the meeting. At this stage, discussion in the General Council is usually general in nature. The acceding government presents its application, which is welcomed by the members.

3. Working Party formation

The General Council reviews the application of the aspiring country. If accepted, the Secretariat announces the formation of a Working Party to study the accession request. The Working Party has a standard terms of reference, which reads as follows:

“to examine the application of the Government of (name of country concerned) to accede to the World Trade Organization under Article XII and to submit to the General Council/Ministerial Conference recommendations which may include a draft Protocol of Accession”

When the Working Party is established, it is standard practice for the Chairman of the General Council to be given the authority to nominate its chairperson after consulting with the acceding country and members of the Working Party. The Working Party serves as the principal forum for the negotiation and resolution of issues relating to accession. Individual Working Parties agree on the procedures to be used for negotiating the “terms to be agreed” as specified in Article XII. However, the organization and pursuit of the accession negotiations in each Working Party follows a well-established pattern based on procedures set out in a note by the WTO Secretariat.⁵ Before issuing the note, the Secretariat consults extensively with interested WTO members and takes the views expressed into account. It is generally understood that the note will not be submitted to the General Council or to individual Working Parties for formal endorsement but that it will be prepared as a practical guide for delegations of both WTO members and acceding governments or separate customs territories and not as a general policy statement on accession negotiations.⁶

Membership in the Working Party is open to all interested WTO members. This ensures that the multilateral part of the accession process is conducted in a transparent manner as possible. Routinely, the most active members in the Working Party are the United States, European Union, and those members having active economic and political relations with the acceding country or share borders with the country. The size of Working Parties has varied considerably from 68 (China) to 23 (Seychelles), the average being 40 members. Any WTO member or observer wishing to become an observer to a Working Party may do so. IMF and World Bank have observer status in accession Working Parties by virtue of their Agreements with the WTO. The Working Party Members play a major role

⁵ WT/ACC/1, 24 March 1995.

⁶ See WT/ACC/1, paragraph 2. See also WT/ACC/7/Rev. 1: Technical Note on the Accession Process, 19 November 1999, and Rev. 2, 1 November 2000.

in negotiating the accession of new members. It goes without saying that it is important for the acceding country to continue informal discussions with the Working Party Members, either on a bilateral or plurilateral basis, to anticipate concerns and address them in the Foreign Trade Regime Memorandum (discussed below), as well as to evaluate the overall level of support for its application.

4. Preparation of the Foreign Trade Regime Memorandum by the acceding country

The acceding country is required to prepare a Foreign Trade Regime Memorandum (the “Memorandum”) which describes in detail the acceding country’s trade regime and policies, including specific, detailed descriptions of its import and export policies and practices, tariff schedules, non-tariff barriers (e.g. quotas), state participation in trade, and various other matters.⁷ With the expanded scope of the WTO Agreement beyond GATT 1947, the “Memorandum should also cover the areas of intellectual property, services, and trade-related investment matters. A general overview of the economy is also provided by the “Memorandum”. A copy of the laws and regulations relevant to accession (or summary thereof) are also to be made available to members of the Working Party at the same time as the Memorandum along with a translation in one of the WTO official languages (English, French and Spanish) to ensure that the laws and regulations conform to WTO requirements. Only laws and regulations that are relevant to the particular accession in question should be submitted.⁸ The length of time taken to present the Memorandum is an indication of the fact that its preparation represents a considerable investment of time and resources for the applicant. However, the presentation of a complete and accurate document greatly helps to simplify and facilitate the subsequent stages of the accession process.

The Memorandum serves as the basis for negotiations between the acceding country and the Working Party. Though there are no formal, agreed criteria for WTO accession, in recent years the Contracting Parties⁹ have focused on the country’s commitment to market-oriented policies and reforms, which form the

⁷ Other matters cover economic statistics; a discussion of the acceding country’s trade balance, volume of trade, and trade by geographic areas; a summary of its industrial and agricultural policies; any economic reforms in progress; and a description of the bilateral and multilateral economic and trade agreements to which the country is party. The information is submitted in accordance with an outline format attached to WT/ACC/1, though in practice many Memoranda presented have not been fully consistent with the outline format, despite the efforts made by the Secretariat through its technical assistance activities.

⁸ In practice, many laws and regulations are supplied to the WTO after the Memorandum has been distributed, especially since many acceding countries are in transition or are undertaking a process of economic reform which require major changes in their legislation.

⁹ That is, current WTO members.

basis of the WTO's basic principles and assumptions. In the case of economies in transition, focus has been on the protection of private property rights and the privatization process, as well as market-economic reforms and establishment of market-based principles and economic freedom.

In the preparation of the Memorandum and during the whole process of accession, the acceding country may seek technical assistance from the WTO Secretariat on such matters as the proper form of required reports and schedules. The Secretariat will often provide informal comments on issues addressed in the Memorandum.

5. Questions and comments from existing members

The Memorandum is distributed by the WTO Secretariat to all WTO members. The members then can have the opportunity to submit questions and comments on the acceding country's trade regulations and regime. The Secretariat will collect the submissions, edit them to protect the identity of the questioners, and send them to the acceding country for a written reply. Several rounds of questions and answers may be necessary before the first meeting of the Working Party is held. The number and diversity of questions and the number of rounds have varied widely from one accession to another. Throughout this phase of the process, the Working Party meets periodically to discuss issues raised in the acceding country's Memorandum.

The first meeting of the Working Party is set once an adequate documentary basis is available. A minimum of four to six weeks should elapse between the formal circulation of the documentation in the 3 working languages and meetings of the Working Party to allow adequate time for delegations to prepare. At the first meeting, the Working Party will review the Memorandum and questions and answers provided and may seek further clarifications and fact-finding meetings. The number of fact-finding meetings that have been held of each Working Party has varied considerably, depending on a number of factors, including the interest generated by a particular accession, the complexity of the policies examined and the adequacy of the information supplied.¹⁰

6. Negotiations

During the proceedings of the Working Party, the acceding country starts the formal negotiations with Working Party members and other concerned members (e.g. those which put questions and comments to the Memorandum) regarding

¹⁰ WT/ACC/7/Rev. 2, op. cit.

the terms of the acceding country's admission to the WTO either on a bilateral or plurilateral basis. The negotiations take place with the understanding that WTO membership would lead to substantial benefits for the acceding country. In return, the acceding country has to agree to tariff reductions and other concessions that approximate the benefits it will obtain as a result of WTO membership as a kind of "membership application fee". In the absence of any objective standard, the negotiations are often extremely complex and vary from case to case. The multilateral negotiations relate to three main areas: rules in goods, TRIPs; and services. The negotiations on these three areas are, on the whole, dealt with separately as they address different issues. The bilateral negotiations relate to market access concessions in goods and commitments in the services sector. The results of the acceding country's bilateral market access negotiations on goods and services are consolidated by the Secretariat into Schedules of concessions and commitments on goods (including negotiated levels of domestic support and export subsidization of agricultural products) and services.¹¹

The acceding country will be expected to demonstrate that it is prepared to fulfill the common obligations established by all of the various WTO Agreements. An acceding country will also be expected to provide schedules of concessions in the areas of tariffs, agriculture, services, and trade-related investment measures. Three main items are expected to figure prominently during the negotiations: 1. market access; 2. membership status; and 3. transition rules.

(a) *Market Access*

All acceding countries must agree to schedules of tariff concessions: commitments not to impose tariffs above specific, negotiated levels for specific classes of imported products. These tariff commitments are known as binding or bound tariff rates. Parties negotiate over the breadth of coverage of bindings, the depth of tariff reductions, and the length of any phase-out period. Once binding tariff levels are accepted, the most-favoured-nation provision requires the acceding country to apply its tariff bindings to all WTO members.

The Goods Schedule contains the tariff concessions and agricultural commitments made by the acceding country. These take the same form as the Schedules of all other WTO members: Part I containing most-favoured-nation tariff concessions ("bindings"), Part II containing any preferential tariff concessions, Part III containing any non-tariff concessions, and Part IV containing commitments limiting subsidization of agricultural products. All WTO members must undertake

¹¹ *ibid.*

most-favoured-nation tariff bindings and agricultural commitments but concessions on the preferential tariff and non-tariff measures are seldom made.¹²

The agricultural commitments on domestic support and export subsidies that must be made by each acceding country are negotiated bilaterally and then plurilaterally at meetings attended by the acceding country and interested members of the Working Party.

Negotiations on services are usually engaged after members of the Working Party have undertaken some form of multilateral examination of the services regime, generally based on information submitted in the outline format. The negotiations usually start in earnest with the circulation to all Working Party members of the acceding country's initial offer. The offer is made available to all interested Working Party members and takes the format of a draft of the Schedule of Specific Commitments which upon finalization is attached to the Protocol. Negotiations then take place bilaterally with interested members of the Working Party, on the basis of the offer and requests from the members. This process invariably leads to revisions of the offers which are then circulated to members of the Working Party.¹³

(b) *Membership Status*

The WTO Agreements routinely contain a clause for "special and differential treatment" (S&D) for a specified class of developing countries. S&D treatment allows specified countries a longer transition period or limited exceptions from the obligations of the agreements. S&D treatment is usually accorded to the least developed countries and countries with economies in transition.¹⁴ It is therefore in the interest of the acceding country to be included in the particular group receiving S&D treatment, and any claim to such status may be subject to debate.¹⁵ It is important for acceding countries to identify the various exceptions and

¹² *ibid.*

¹³ *ibid.*

¹⁴ For instance, the Agreement on Subsidies and Countervailing Measures provides that "Members in the process of transformation from a centrally planned into a market, free enterprise economy may apply programs and measures necessary for such transformation", including export subsidies and subsidies contingent upon the use of domestic content, which normally are prohibited by Article 3 of the Agreement. Economies in transition are given a period of seven years to phase out those subsidy measures that are inconsistent with the Agreement. In a similar fashion, the General Agreement on Trade in Services recognizes "...that particular pressures on the balance of payments of a member in the process of economic development or economic transition may necessitate the use of restrictions to ensure, *inter alia*, the maintenance of a level of financial reserves adequate for the implementation of its program of economic development or economic transition". These restrictions are subject to specified limitations.

¹⁵ The case of China is illustrative here.

transition rules already provided in the agreements for developing countries, least developed countries and economies in transition. These provisions automatically apply to such members and, therefore, acceding countries that qualify as such need not make concessions to obtain the benefits of these provisions.

(c) *Transition Rules*

It is possible for acceding countries to negotiate exceptions and less stringent transition rules beyond those already provided for in the agreements. Country-specific provisions are more difficult to obtain in light of the detailed provisions already in place in most of the agreements and therefore a strong case for their need should to be made by the acceding country. Transition periods have been the subject of considerable discussion in accession Working Parties. The transition periods granted to original WTO members have not automatically been made available to governments acceding under Article XII, regardless of their level of development. In fact, it is the position of some WTO members that only original members of the WTO are entitled to transitional periods. A few transition periods have been granted in limited areas and for short periods of time following submission of a detailed plan ensuring WTO consistency. (by enactment of needed legislation, training of personnel responsible for implementation, etc.) by the date of accession in all other areas.

7. Draft Protocol and Vote

At the conclusion of the negotiations, the Working Party prepares and adopts its package of Report and Draft Protocol of Accession, which outlines the precise terms of membership for the acceding country, and a report to the General Council. The Working Party's report has become increasingly important as a valuable interpretative document that explains and elaborates on the commitments being undertaken by the acceding country. The Working Party also adopts a Draft Decision which when taken by the General Council invites the acceding country to accede to the WTO on the terms set out in the Report, Draft Protocol and Schedules of Concessions and Commitments. The Draft Protocol, is submitted to a vote of all the members, with a two-thirds majority required for approval.¹⁶ A standard pattern for the text of the Draft General Council Decisions has now emerged.

In practice, the Council's vote is largely a formality, since an acceptable package will necessarily have been worked out in the negotiation process. Any

¹⁶ WTO Agreement, Article XII.2.

members that still have objections to the accession of the new member may invoke the non-application provision of the WTO Agreement, which permits existing members to refuse to apply the WTO Agreement to acceding countries, provided that the existing member notifies the WTO membership prior to the approval of the acceding country's terms of accession. Conversely, the acceding party may, at the time of its accession, invoke the provision to refuse to apply the WTO Agreement to other members.¹⁷

Once approved, the protocol (including the acceding country's schedules of concessions) constitutes a formal agreement among the members on the terms of the acceding country's accession. The acceding country becomes a member of the WTO 30 days after it accepts its Protocol of Accession.

Given the complexities involved, the accession process is rather long and usually takes years to complete. In the case of Kyrgyzstan, the process was remarkably fast and took 2 years and 4 months to complete from application to membership. There is, however, a concern that countries eager to join may agree to concessions which turn out not to be in their interest. It is therefore important that countries are fully aware of the implications of WTO membership and the obligations such membership entails for them. In consultation with the members, the WTO Secretariat has streamlined the accession process for least developed and small island developing economies by reducing the number of Working Party meetings and ensuring that maximum progress is made between meetings without the acceding government concerned having to visit Geneva. This includes, to the extent possible, the bilateral market access negotiations in goods and services. In this context, the importance of informal consultations prior and during the accession process should be emphasized to smoothen the formal process.

Once a member of the WTO, countries must be subject to the Trade Policy Review Mechanism in order to ensure transparency and impart confidence that all members will be subject to the same requirements and monitoring. This process is not unlike the first Working Party Meeting where applicants submit the Memorandum.

C. Trade and trade policy in the economies in transition: an overview

This section provides a brief background of the economies in transition in the Caucasus region and in Central Asia. All countries initially suffered greatly from the break-up of the Soviet Union but have rebounded since then. They have

¹⁷ WTO Agreement, Article XIII.1.

all embraced economic reforms and concomitant trade liberalization to various extents. Tables 18 and 19 in the appendix provide some general background data on the economies as well as their level of integration.

1. Caucasus

The Caucasus region consists of Armenia, Azerbaijan and Georgia. Of these three, Georgia became a WTO member in 2000. Both Armenia and Azerbaijan are in the advanced stages of accession.

(a) *Armenia*

Armenia is a small country in the Caucasus with a limited economic base and a total population of about 3.8 million. In 2000, a fifth of GDP originated from the agricultural sector, 22 per cent from industry and 9 per cent from trade. Heavy industry has particularly suffered. While light industries such as grain-based agro-processing and wine-processing and jewellery production has performed better, outdated technologies make them uncompetitive in international markets. Table 2 shows the basic economic indicators of Armenia, while table 3 shows the main export and import data and figure 1 trade turnover for selected years. The main export earners are precious or semi-precious metals and stone, in particular uncut diamonds, particularly to Europe (Belgium). Due to the limited availability of arable land, food figures prominently among imports. Trade with states from the Commonwealth of Independent States (CIS) has decreased in relative terms-exports to CIS countries declined from 73.3 per cent in 1994 to 24.4 per cent in 2000 – though in absolute terms exports to CIS countries has actually grown. The current account deficit widened to 16 per cent of GDP in 2000. Armenia is land-locked and has strained relations with its neighbours Azerbaijan and Turkey. Trade through Georgia faces obstacles due to the blockade of Abkhazia. Trade through the Islamic Republic of Iran is limited but growing. The Islamic Republic of Iran recently agreed to build a pipeline to supply Armenia with gas.¹⁸

Armenia has most-favoured nation (MFN) status with the United States of America and the European Union. Several steps have been taken to liberalize foreign trade, including the elimination of mandatory prepayment for exports, licensing, and export taxes on goods prices below certain reference prices. The tariff structure has been streamlined to only two rates: 0 per cent and 10 per cent. Exemptions are extended to goods that originate from the CIS and to others such as humanitarian aid, some food products and raw materials. The 0 per cent rate

¹⁸ *ibid.*

Table 2. Selected annual economic indicators, Armenia

Economic indicators	1996	1997	1998	1999	2000a
GDP at market prices (billions of dram)	661	804	955	987	1,033
GDP (US\$ bn)	1.6	1.6	1.8	1.8	1.9
Real GDP growth (per cent)	5.8	3.1	7.2	3.3	6.0
Consumer price inflation (av; per cent)	18.7	13.9	8.7	0.8	-0.7
Exports of goods fob (US\$ m)	290	232	229	247	300a
Imports of goods cif (US\$ m)	856	892	902	808	855
Current account balance (US\$ m)	-291	-307	-418	-307	-327a
Exchange rate (av; dram: US\$)	414.04	490.85	504.92	535.06	539.61

Source: Economic Intelligence Unit, Country Report Armenia and Georgia, May 2001.

27 April 2001 exchange rate: dram 548.71: US\$ 1.

a EIU estimates.

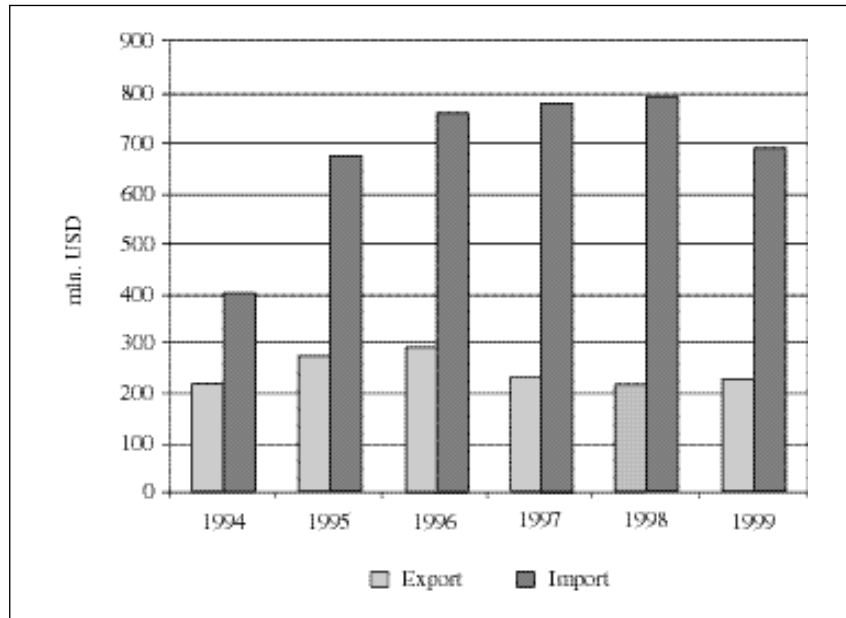
Table 3. Principal exports and imports and main destinations for exports and imports Armenia (per cent of total)

Principal exports 2000	Precious or semi-precious metals & stone	40.8
	Base metals	14.9
	Machinery and equipment	10.4
Principal imports 2000	Mineral products	20.5
	Machinery and equipment	11.1
	Vegetable products	13.2
Main export destinations 2000	Belgium	25.2
	Islamic Republic of Iran	9.3
	Russian Federation	15.0
	United States of America	12.7
Main origins of imports 2000	Russian Federation	14.9
	United States of America	11.6
	Belgium	9.5
	Islamic Republic of Iran	9.4

Source: Economic Intelligence Unit, Country Report Armenia and Georgia, May 2001.

is applied to the most important raw materials used in food stuff, agricultural products, fuels, clothing and garments. Import tariffs are not applicable to humanitarian aid, medical devices, meat, dairy products, sugar and some other raw materials. Non-tariff restrictions are in place for imports such as weapons, and licenses are required for medicines and agricultural chemicals.¹⁹ There are

¹⁹ EIU Country Profile Armenia and Georgia, 2000-2001; EIU 2000.



Source: Central Bank of Armenia.

Figure 1. Trade turnover Armenia, 1994-1999

no quantitative restrictions on either imports or exports. Export products are subject to tax. Export licenses are required for export of textile goods to European Union member-countries, according to an agreement with the European Union. Export license is also required for medicine, some kind of living stock and plants. All clearing trade with former countries of the Soviet Union has been eliminated.

Armenia is in the advanced stages of WTO accession and expected to be a member by the end of the year 2001. However, the country still has to complete bilateral negotiations which will take the better part of 2001. The most contentious issue is the country's support to the agricultural sector which is considered of high strategic importance.

(b) Azerbaijan

Azerbaijan is a large country bordering the Caspian Sea with a population of about 8 million and is mainly an oil and oil products exporting country. Industry accounts for almost one quarter of GDP and is dominated by the oil and state sector, while agriculture accounts for just over a fifth. Despite its oil wealth, Azerbaijan has faced a persistent energy crisis in 2000. Oil and oil

products accounted for over three quarters of total exports in 1999 (table 5). Table 4 shows the main economic indicators for Azerbaijan.

Table 4. Selected annual economic indicators, Azerbaijan

Economic indicators	1996	1997	1998	1999	2000a
GDP at market prices (billions of manat)	13 663	15 791	15 930	16 489	19 897b
GDP (US\$ bn)	3.2	4.0	4.1	4.0	4.4b
Real GDP growth (per cent)	1.3	5.8	10.0	7.4	11.4b
Consumer price inflation (av; per cent)	19.8	3.6	-0.8	-8.6	1.8b
Exports of goods fob (US\$ m)	644	808	678	1 025	19 995
Imports of goods cif (US\$ m)	1 338	1 375	1 724	1 433	1 522
Current account balance (US\$ m)	-931	-916	-1 364	-600	-3.4
Exchange rate (av; manat: US\$)	4 301	3 985	3 869	4 120	4 475

Source: Economic Intelligence Unit, Country Report Azerbaijan, April 2001.

20 April 2001: manat 4,579: US\$ 1.

a EIU estimate; b actual.

Table 5. Principal exports and imports and main destinations for exports and imports, Azerbaijan (per cent of total)

Principal exports fob 1999	Oil products	75.9
	Food products	6.5
	Machinery and equipment	3.7
	Metals	2.7
	Cotton	2.3
Principal imports cif 1999	Machinery and equipment	33.1
	Chemicals	11.9
	Food products	20.1
	Machinery and equipment	10.8
	Oil products	8.7
Main export destinations 1999	Italy	30.5
	Russian Federation	8.1
	Georgia	7.7
	Turkey	7.0
	Islamic Republic of Iran	2.4
Main origins of imports 1999	Russian Federation	21.9
	Turkey	13.8
	United States of America	8.0
	Islamic Republic of Iran	4.6
	Germany	4.5

Source: Economic Intelligence Unit, Country Report Azerbaijan, April 2001.

Azerbaijan has been able to post high growth rates thanks to sustained flows of foreign direct investment in the oil industry. The rest of the economy is performing poorly however due to lagging economic reforms. The country is facing problems with the construction of pipelines to export its oil and gas due to political problems and costs. The discovery of gas has turned Azerbaijan from a net gas importer to an important potential exporter, particularly to Turkey. Manufacturing in Azerbaijan is still largely government controlled and former important sectors such as oil engineering and oil equipment manufacturing and related machine-building sectors, as well as potentially important light industries such as textiles, are suffering from undercapacity and obsolete technology.²⁰

Azerbaijan has traditionally been trade dependent but despite its oil wealth experienced large trade deficits in the mid-1990s, which have recently narrowed. Trade data are unreliable and have to be viewed with caution. Trade with the CIS has declined in favour of Europe. In 1999, the CIS accounted for 22.7 per cent of Azerbaijan's exports and 31.4 per cent of its imports, compared with 94 per cent and 80 per cent respectively in 1991. Italy is Azerbaijan's largest export market because of oil shipments to the Trieste oil terminal. The major problem of Azerbaijan's trade is the economic volatility of neighbouring markets with unstable currencies. For instance, after the recession in Turkey, exports to that country plummeted from 22.4 per cent of total exports in 1998 to only 7.0 per cent in 1999, while exports to the Islamic Republic of Iran surged by 200 per cent year on year.²¹

Azerbaijan has applied for WTO membership and has recently started the phase of negotiations. In 1993, it signed a bilateral trade agreement with the United States. The country does not operate import licenses, except for food products from animal origin, but maintains cumbersome customs procedures. A tariff range of 0-15 per cent is maintained as well as ad valorem and some specific duties on selected goods. Imported goods are also subject to a value-added tax of 20 per cent. Some products such as seeds, fertilizer, breeding animals, pharmaceutical products, capital goods, spare parts used in agriculture, baby products, etc. are exempt from duties and taxes. The Government intends to reduce the general import tariff rate from 15 per cent to 10 per cent by the year 2001. However, in view of fiscal pressures, earlier plans to cut the rate to 12 per cent in 1999 have been postponed.

²⁰ EIU Country Profile Azerbaijan, 2000; EIU 2000.

²¹ EIU Country Reports, 1st Quarter 2000 and Country Profile Azerbaijan 2000.

In January 1997, the State Ministry of Natural Resources was converted into a state company called "Azercontract". In June 1997, the Ministry of External Economic Relations and the Ministry of Trade were combined in a new Ministry of Trade.

In July 1996, export tariffs were levied on most goods. An export duty of 70 per cent was levied on oil and oil products, high pressure polyethylene, sulfanol, caustic soap, aluminum, steel pipe, iron concentrate, bronze products, raw cotton and caviar. Exemptions included (a) goods produced from foreign materials and goods produced by foreign investors in the country; (b) commodities exported under intergovernmental agreements; (c) export of processed products made from imported raw materials (re-export operations); (d) export of raw materials for processing abroad and subsequent re-imported into Azerbaijan. However, all export duties were later eliminated and only a licensing system for a limited range of products is currently still in operation.

(c) *Georgia*

Georgia is a small Caucasian country with a population of about 5.4 million. It is the only WTO member among the Caucasian economies. Agriculture is still the dominant economic sector, accounting for 21 per cent of GDP in 2000, while industry is a distant second with 13 per cent. Tables 6 and 7 provide general economic and trade data for the country.

Table 6. Selected annual economic indicators georgia

Economic indicators	1996	1997	1998	1999	2000
GDP at market prices b (millions of lari)	4 544	6 394	6 805	8 880a	9 425a
GDP a (US\$ bn)	4.5	5.2	5.2	4.4	4.8a
Real GDP growth (per cent)	11.4	11.3	2.9	3.0	1.9
Consumer price inflation (av; per cent)	39.4	7.1	3.6	19.2	4.1
Exports of goods (US\$ m)	372b	377	300	330	459
Imports of goods cif (US\$ m)	686	931	1 045	586	700
Current account balance b (US\$ m)	-295b	-514	-277	-198	-262
Exchange rate (av; lari: US\$)	1.26	1.30	1.39	2.02	1.98

Source: Economic Intelligence Unit Country Report Armenia and Georgia May 2001.

27 April 2001: lari 2.055: US\$ 1.

a EIU estimates; b TACIS Georgian Economic Trends estimates.

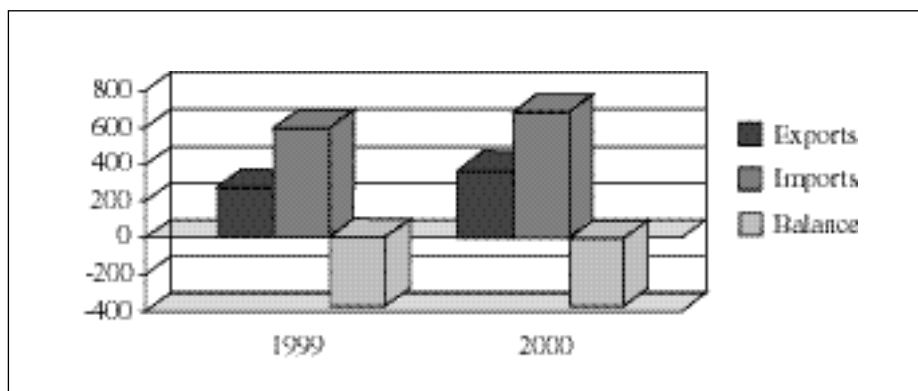
Table 7. Principal exports and imports and main destinations for exports and imports Georgia (per cent of total)

Principal exports fob 2000	Metals (incl. ferro alloys, precious and scrap metals)	30.7
	Food, drink and tobacco products	15.3
	Fertilizers	4.7
Principal imports cif 1999b	Food, drink and tobacco products	15.0
	Oil and petroleum products	9.8
	Medicines	6.5
Main export destinations 2000	Turkey	22.3
	Russian Federation	20.6
	Azerbaijan	6.4
	Ukraine	5.9
	European Union	20.1
Main origins of imports 2000	Russian Federation	12.9
	Turkey	15.6.01
	United States of America	10.1
	European Union	17.6

Source: Economic Intelligence Unit, Country Report Armenia and Georgia, May 2001.

Based on data from the Georgian State Statistics Department for 2000, Georgia's foreign trade turnover increased by 22.6 per cent in 2000 compared with 1999 and totaled US\$ 1,030.1 million. During this period, Georgia's exports increased by 38.5 per cent to \$ 329.9 million, while imports increased by only 16.3 per cent to \$ 700.2 million (figure 2). The present negative trade balance in February 2001 stood at \$ 370.3 million.

The country managed to subdue inflation, despite an upsurge in 1999, as a result of a currency reform and tight monetary policies despite and to reduce the current account deficit which had become unmanageable in 1998. Tax evasion remains endemic. GDP growth has markedly slowed towards the end of the 1990s due to political upheaval and civil strife. The CIS, in particular the Russian Federation, has continued to be a major trading partner for Georgia although the European Union has also increased in importance. In 1999, the share of exports to the CIS was 45 per cent. The largest export sector is ferro alloys and scrap black metals, followed by nuts. Trade data are very unreliable and there is a large volume of smuggling. The war in Abkhazia has cut trade routes to the Russian Federation. Slow land reform and a severe drought in 2000 have wreaked havoc on the country.



Source: Georgian Export Promotion Agency, Export Newsletter, February 2001.

Figure 2. Trade turnover of Georgia, 1999-2000

The country's small market and economic problems have forced it to adopt a liberal trade policy. Most goods are subject to a 12 per cent import duty, but a lower second tariff rate of 5 per cent was introduced in January 1997.²² Exporters in Georgia have complained about the slow VAT refunds levied on raw materials inputs for export goods, high transportation costs and lax implementation of customs laws.

Because the United States has not extended unconditional NTR to Georgia as a result of the application of the so-called Jackson-Vanik amendment,²³ the United States had to invoke the non-application clause of the WTO (Article XIII) at the WTO General Council meeting on Georgia's accession on 30 September 1999, meaning that the United States would not apply the WTO Agreements to Georgia upon that country's accession to the WTO. Georgia formally became a member of the WTO on 14 June 2000. The President of the United States has now been authorized to establish normal trading relations with Georgia.

2. Central Asia

The countries of Central Asia consist of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan. Of these, Kyrgyzstan has the most liberal trading environment and is the only member of WTO. Turkmenistan is the only country

²² EIU Country Profile Armenia and Georgia, 2000.

²³ The Jackson-Vanik amendment to the Trade Act of 1974 was designed to deny most-favoured-nation (MFN) trade status to communist countries, notably the Soviet Union, in order to encourage more open emigration.

which has not applied for membership and maintains a tightly controlled economy. Uzbekistan has also been blamed by the IMF for lagging economic reforms while Kazakhstan seems to be the most promising in terms of economic and trade liberalization and prospects for WTO membership.

(a) *Kazakhstan*

Kazakhstan is the largest country in Central Asia with a population of about 15 million people. Industry made up 25.6 per cent of GDP in 1999, while trade accounted for 15 per cent, and agriculture only 10 per cent. The economy and export is based on oil and base metals and the prices of these commodities are subject to high volatility in international markets providing for a rather unstable economic base. Most exports stem from foreign investment. There is a lot of smuggling and trade data are incomplete and subject to frequent revisions. Tables 8 and 9 provide selected economic and trade data for Kazakhstan.

The Russian Federation has remained the largest trading partner while trade with the CIS as a whole has slowly declined in favour of Europe, and most recently, the Caribbean. Sales outside the CIS accounted for 74 per cent of total exports in 2000. The current account turned positive for the first time in 2000. There are severe trade frictions with Uzbekistan. Kazakhstan is member of the CIS customs union (with Belarus, Kyrgyzstan, the Russian Federation and Tajikistan) and the Central Asian Economic Community (CAEC) as well as the Economic Cooperation Organization (ECO). Kazakhstan has received MFN status from the United States and has signed a partnership and cooperation agreement with the European Union.

Table 8. Selected annual economic indicators, Kazakhstan

Economic indicators	1996	1997	1998	1999	2000
GDP at market prices (billions of tenge)	1 416	1 672	1 721	2 017	2 592
GDP (US\$ bn)	21.0	22.2	22.0	16.9	18.2
Real GDP growth (per cent)	0.5	1.7	-1.9	2.7	9.5
Consumer price inflation (av; per cent)	39.1	17.4	7.3	8.4	13.4
Exports of goods fob (US\$ m)	6 292	6 899	5 871	5 989	9 485b
Imports of goods fob (US\$ m)	6 627	7 176	6 672	5 645	7 452b
Current account balance (US\$ m)	-751c	-799	-1 225	-171	740b
Exchange rate (av; tenge: US\$)	67.3	75.4	78.3	119.5	142.1

Source: EIU Country Report Kazakhstan, April 2001.

11 April 2001: tenge 145.58: US\$ 1.

a Actual; b EIU estimates; c data for 1996 as reported by National Statistical Agency of Kazakhstan.

Table 9. Principal exports and imports and main destinations for exports and imports, Kazakhstan (per cent of total)

Principal exports 1999	Oil and oil products	40.9
	Metals	29.0
	Grain	5.6
	Chemicals	5.8
	Machinery	1.1
Principal imports 1999b	Machinery and equipment	29.0
	Energy and fuels	9.3
	Vehicles	9.7
	Metals	7.6
	Food	1.8
Main export destinations 1999	Russian Federation	19.8
	European Union	22.9
	China	8.5
	Former Soviet Republics (excl. Russian Federation)	6.3
	Main origins of imports 1999	Russian Federation	36.7
	European Union	25.3
	United States of America	9.5
	Former Soviet Republics (excl. Russian Federation)	3.9

Source: Economic Intelligence Unit, Country Report Kazakhstan, April 2001.

Kazakhstan has implemented far-reaching trade liberalization including: (a) elimination of quotas for exports of goods; (b) reduction in the list of products subject to licensing; (c) elimination of export duties on all goods except for wheat, oil, gas and non-ferrous metals; (d) elimination of practices of granting customs and taxation benefits; (e) elimination of the institution of social exporters, of exports of any commodities; establishing of a number of free economic zones; (f) elaboration of the pattern of preferences for developing countries which grants partial or complete exemption from paying import custom duties on products imported from these countries; (g) improving technical, sanitary, and phytosanitary practices and other similar controls to prevent imports of substandard goods into the country; (h) introducing a system of government procurement at market prices. Kazakhstan imposed increases of 200 per cent in applied import duties for Uzbekistan and Kyrgyzstan in 1999 only to replace them with a 20 per cent value added tax on Uzbek goods. Currently, tariffs in the range of 0-30 per cent (for countries enjoying MFN status; double for others) and a VAT of 20 per cent are levied on most imports. Plans to introduce an oil export duty to clamp down on the

practice of transfer pricing in 2000 was shelved. Kazakhstan applied for WTO membership in January 1996.

(b) *Kyrgyzstan*

Kyrgyzstan has the most liberal economic and trading environment of all economies in Central Asia and is the only WTO member in the subregion. It is a small land-locked country with a population of less than 5 million. The economy is still predominantly agricultural with agriculture accounting for 39 per cent of GDP in 1999, while industry made up 18.3 per cent.

Its principal export is gold and main export destination of is Germany. Trade with other CIS countries has markedly declined. Tensions have arisen with the CIS on Kyrgyzstan's WTO membership which conflicts with its membership in regional economic groups. Tables 10 and 11 provide the main economic and trade data for Kyrgyzstan.

As a result of the WTO accession process, Kyrgyzstan has implemented major trade liberalization measures. Liberalization started in 1994 with the lifting of import and export licensing requirements and the abolishment of state orders and purchases. At the same time, a low and uniform tariff of 10 per cent on all imports of non-CIS states was imposed but higher tariffs have been contemplated afterwards. The WTO bound tariff schedules at average (unweighted) 6.7 per cent for manufacturers and 11.7 per cent for agriculture.²⁴ In addition, tobacco, alcohol, precious metals, petroleum, carpets, coffee and cocoa, jewelry, crystal,

Table 10. Selected annual economic indicators, Kyrgyzstan

Economic indicators	1996	1997	1998	1999	2000
GDP at current prices (billions of som)	23.4	30.7	34.2	48.7b	62.2b
GDP at market exchange rate (US\$ bn)	1.8	1.8	1.6	1.2b	1.0b
Real GDP growth (per cent)	5.6	9.9	2.0	3.6b	5.0b
Consumer price inflation (av; per cent)	31.4	255	12.1	35.9b	18.7b
Exports of goods fob (US\$ m)	531	631	535	463	509
Imports of goods fob (US\$ m)	783	646	756	547	511
Current account balance (US\$ m)	-425	-139	-371	-185	-122
Exchange rate (av; som: US\$)	12.8	17.4	20.8	39.0b	47.7b

Source: EIU Country Report Kyrgyz Republic/Tajikistan, April 2001.

28 March 2001: som 49.44: US\$ 1.

a EIU estimates; b Actual.

²⁴ WTO, Technical Note on the Accession Process, WT/ACC/7, March 1999.

Table 11. Principal exports and imports and main destinations for exports and imports, Kyrgyzstan (per cent of total)

Principal exports 1999	Non-ferrous metallurgy	47.9
	Agriculture	12.5
	Electricity	11.5
	Machine building	10.3
	Light industrial products	7.1
Principal imports 1999	Machine building	33.8
	Oil and gas	19.8
	Food products	9.0
	Medical instruments	7.0
	Light industrial products	6.4
Main export destinations 1999	Germany	32.7
	Russian Federation	15.6
	Uzbekistan	10.3
	Kazakhstan	9.9
	China	5.6
Main origins of imports 1999	Russian Federation	18.2
	Kazakhstan	12.1
	United States of America	9.0
	Uzbekistan	8.3
	Germany	7.9

Source: Economic Intelligence Unit, Country Report Kyrgyz Republic/Tajikistan, April 2001.

fur, and firearms have excise taxes of 10-20 per cent. A 20 per cent VAT is levied on all imports except for those produced in Azerbaijan, Belarus and the Russian Federation. There are several free trade zones. They have been established in major transit areas of Kyrgyzstan, at Manas airport (in Bishkek) and in special zones located close to railway stations and customs posts along the border with China. Goods entering and goods traded within these zones are duty free. If these goods are sold within Kyrgyzstan all duty fees will be paid in full. Goods can be sold to third countries free of double taxation. Import of the following goods is subject to licensing: cipher equipment; military armament and armaments techniques; equipment to combat toxic agents/poison gases; nuclear materials and technologies; dual-use materials, equipment and technologies; precious metals and alloys; natural precious stones; narcotic remedies, psychotropic substances and precursors; powerful poisons; dangerous wastes; medical remedies; alcohol and alcohol products; official (law enforcement) and civilian arms; and tobacco. The country has full current account convertibility. In May 2000, Kyrgyzstan and Uzbekistan lifted most remaining import restrictions on each others' goods.

The Kyrgyz government has announced plans to privatize the largest companies in the strategic sectors of the economy, such as mining, telecommunications, energy, aviation, printing and recreation, although none of these industries has yet been privatized.

(c) *Tajikistan*

Tajikistan is, like Kyrgyzstan, a small land-locked country recovering from severe civil strife with a total population of 6 million. The service sector is the most important economic sector, accounting for 62 per cent of GDP in 1998. Manufacturing activities centre on the processing of agricultural production. Exports are dominated by aluminium which accounted for 40 per cent of total exports in 1998. Non-CIS countries now account for almost 70 per cent of exports and 40 per cent of imports. Tables 12 and 13 provide the economic and trade data for Tajikistan.

Trade with CIS countries continues to dominate accounting for 62 per cent of all trade, mostly with the Russian Federation and Uzbekistan. Aluminium, cotton and electricity together account for 75 per cent of all exports. The cotton trade has been hurt by a glut in world demand and declining prices of cotton. Tajikistan abolished the quota system of production and trade for cotton and aluminium, and imports of necessary goods, such as alumina, natural gas, electricity and agricultural machinery, became duty free. In January 1998, however, some backtracking took place with the imposition of a 5 per cent duty on all imported goods and the abolishment of value-added tax exemptions.²⁵ Tajikistan applied

Table 12. Selected annual economic indicators, Tajikistan

Economic indicators	1996	1997	1998	1999	2000a
GDP at market prices (TR bn)	309	632	1 025	1 345a	1 807
GDP at market exchange rate (US\$ bn)	1.0	1.1	1.3	1.1a	1.0
Real GDP growth (per cent)	-4.4	1.7	5.3	3.7	8.3
Consumer price inflation (av; per cent)	418	88	43	28	33c
Exports of goods fob (US\$ m)	771	746	586	666	746
Imports of goods fob (US\$ m)	786	810	732	693	729
Current account balance (US\$ m)	-69	-57	-109	-37	-14
Exchange rate (av; S: US\$) b	0.30	0.56	0.79	1.24	1.83c

Source: EIU Country Report Kyrgyz Republic/Tajikistan, April 2001.

a EIU estimates; b The somoni replaced the Tajik rouble in October 2000 (S1: TR 1,000);

c Actual 28 March 2001: S2.35: US\$ 1.

²⁵ EIU, Country Profile Tajikistan 2000.

Table 13. Principal exports and imports and main destinations for exports and imports, Tajikistan (per cent of total)

Principal exports 1998	Aluminium	39.9
	Electricity	19.1
	Cotton	17.6
Principal imports 1998	Electricity	15.5
	Aluminium	15.2
	Petroleum products	10.1
	Grains and flour	5.7
Main export destinations 1998	Non-CIS	67.2
	Europe	62.1
	CIS	32.8
	Uzbekistan	19.6
	Russian Federation	8.2
Main origins of imports 1998	CIS	59.4
	Uzbekistan	28.7
	Russian Federation	13.6
	Non-CIS	40.6
	Europe	32.3

Source: Economic Intelligence Unit, Country Report Kyrgyz Republic/Tajikistan, April 2001.

for WTO membership in 1999 but not in conformity with WTO practices. However, it filed a formal application in May 2001.

(d) *Turkmenistan*

Turkmenistan maintains the most restrictive trade regime of all economies in transition in Central Asia and has so far not applied for WTO membership. It is a large country bordering the Caspian Sea with a small population of about 4.5 million. Industry made up 32 per cent of GDP in 1999, while agriculture and forestry accounted for 26 per cent. The country is almost completely dependent on the exports of gas and crude and refined oil, most of which is channeled through the Russian Federation and the Ukraine. Tables 14 and 15 provide general economic and trade statistics for Turkmenistan.

A major challenge for Turkmenistan is to find viable and acceptable modalities for exporting its gas. A recent major deal with the Russian Federation has alleviated the concern somewhat but the infrastructure for gas exports remains a concern. The country is pursuing a trade policy of import substitution aimed at industrial self-sufficiency in essential goods. As a result, there has been little trade liberalization, if any at all.

Table 14. Selected annual economic indicators, Turkmenistan

Economic indicators	1996	1997	1998	1999a	2000a
GDP at current prices (billions of manat)	7 752	11 109	13 241	19 065	22 900
GDP at official exchange rate (US\$ bn)	2.4	2.7	2.7	3.7	4.4
Real GDP growth (per cent)	-7.7	-25.9	5.0	16.0b	17.6b
Consumer price inflation (av; per cent)	992.4	83.4	17.2	24.1	7.0
Exports fob (US\$ m)	1 692	774	614	1 187b	2 240
Imports cif (US\$ m)	-1 388	-1 005	-1 137	-1 478b	-1 730
Current account balance (US\$ m)	2	-580	-935	-851b	130
Official Exchange rate (av; manat: US\$)	3 258	4 143	4 890	5 200b	5 200b

Source: EIU Country Report Turkmenistan, March 2001.

22 February 2001: Official exchange rate manat 5,200: US\$ 1, black market rate: manat 21,000: US\$ 1.

a EIU estimates; b actual.

Table 15. Principal exports and imports and main destinations for exports and imports, Turkmenistan (per cent of total)

Principal exports 1999	Gas	33
	Crude and refined oil	30
	Cotton fibre	18
	Textiles	8
Principal imports 1999	Machinery and equipment	60
	Food products	15
Main export destinations 1999	Ukraine	27
	Islamic Republic of Iran	14
	Turkey	11
	Italy	9
	Switzerland	5
Main origins of imports 1999	Turkey	17
	Ukraine	12
	Russian Federation	11
	United Arab Emirates	8
	France	6

Source: Economic Intelligence Unit, Country Report Turkmenistan, March 2001.

(e) *Uzbekistan*

Uzbekistan is a fairly big country with a total population of almost 25 million. The country is still mostly agricultural with agriculture and forestry accounting for 28 per cent of GDP in 1999, while the industrial sector comes second with almost 21 per cent (including construction). The country heavily relies on the exports of cotton, with cotton exports accounting for over 40 per cent of total exports in 1999. The Russian Federation remains a major trading partner though its importance has declined in recent years. Tables 16 and 17 provide some background statistics.

Most trade is conducted with countries outside the CIS though trade with CIS countries has picked up recently. However, trade disputes with the rest of Central Asia, in particular Kazakhstan, have continued with both countries imposing tit for tat import restrictions on each other's exports. Smuggling is rampant. Like Turkmenistan, Uzbekistan is following a policy of import substitution supported by a multiple exchange rate and government procurement system and as a result trade liberalization has been limited although recently there have been signs for the better. In fact, Uzbekistan tightened trade restrictions to counter the impact of inflation as a result of the devaluation of the som. All hard currency earnings from exports must be sold to the Government. However, the country enjoys MFN status with the United States and concluded a partnership and cooperation agreement with the European Union despite Uzbekistan's failure to liberalize the current account, which was a condition of the agreement. The Agreement with the European Union is important for the trade in textiles. Modest steps towards currency convertibility have been taken while taxes have been revised to discourage imports. Selected exporters have been granted tax breaks, but the main export items are not subject to those breaks.

On 1 March 2001, applicable import custom duty rates were reduced from 12 to 5 discrete levels ranging from 0 to 30 per cent (except second-hand automobiles) on each category of the Harmonized System (HS). Currently, a VAT of 20 per cent is levied on most import products, but various product groups are exempt from both duties and taxes. The country abolished tariff quotas and quantitative restrictions on imports with exception of ozone-unfriendly goods. Import licenses are required for limited products which are a threat to the general health of the population or are considered an environmental hazard. Likewise, export quotas were abolished and licenses maintained for a limited range of products.

Table 16. Selected annual economic indicators, Uzbekistan

Economic indicators	1996	1997	1998	1999a	2000a
GDP at market prices (billions of som)	559	977	1 359	1 942b	2 523
GDP (US\$ bn)	13.9	14.7	14.3	15.5b	10.7
Real GDP growth (per cent)	1.6	2.5	4.4	4.1b	4.0b
Consumer price inflation (av; per cent)	54.0	58.8	17.8	29.0b	24.9
Exports of goods fob (US\$ m)	3 534	3 695	2 888	2 712	2 818
Imports of goods cif (US\$ m)	4 240	3 767	2 717	2 682	2 661
Current account balance (US\$ m)	-980	-583	-37.5	-272	-142
Exchange rate (av; som: US\$)	40.19	66.35	94.76	125.04b	236.56

Source: EIU Country Report Uzbekistan, March 2001.

12 March 2001: som 336.03: US\$ 1.

a EIU estimates; b actual.

Table 17. Principal exports and imports and main destinations for exports and imports, Uzbekistan (per cent of total)

Principal exports 1998	Cotton	41.5
	Energy products	22.7
	Gold	9.6
Principal imports 1998	Machinery and equipment	49.8
	Foodstuffs	16.4
	Energy products	0.6
Main export destinations 1999	Russian Federation	13.0
	Switzerland	9.8
	United Kingdom	10.1
	Belgium	2.6
	Kazakhstan	4.1
	Tajikistan	3.9
Main origins of imports 1999	Russian Federation	13.8
	Republic of Korea	13.6
	Germany	11.3
	United States of America	7.7
	Turkey	3.9
	Kazakhstan	4.1

Source: Economic Intelligence Unit, Country Report Uzbekistan, March 2001.

D. Experiences with the WTO accession process: obstacles and problems to effective transition

1. Market economy status

In a world characterized by globalization and rapid advanced in information and communication technologies, blurring boundaries and integrating countries into the international trading system, no country can afford to remain isolated and maintain a policy of self-reliance. As a result, all countries have a stake in becoming members of the WTO even though the implications may not turn out to be positive in the short run. In the long run, however, the positive impact of membership and impetus it will provide to economic development and export promotion should not be underestimated provided the appropriate government policies are in place and the principles are solidly those of a market economy. However, the absence of such principles are a major problem in the accession process for some countries. In particular, the lack of transparency and predictability of trade regimes in selected economies in transition is major stumble-block to effective WTO accession and integration into the international trading system.²⁶ While accession would encourage and consolidate the internal reform processes of acceding countries, the WTO principle is that no country which is not a market economy can accede to the WTO. A WTO technical note observes that:

“It was generally recognized also that accession to the WTO involved wide-ranging and, often difficult, legislative and executive action by acceding governments, that each accession was also a negotiation between the acceding government and WTO members and therefore to be treated on its own merits, and that the balance in each accession was to accommodate the special situation of the acceding government on the one hand, and to maintain the credibility of the WTO system on the other”.²⁷

A complicating factor is whether to consider the acceding countries classified as “economy in transition” both as a “market economy” and/or a developing country. In the first case, classification as non-market economy would prevent membership. In this context, the problem of determining whether a country is “dumping” its exports by pricing them below costs has arisen, in particular in the cases of accession of China and the Russian Federation. Investigations into anti-dumping are time consuming and costly to firms and more prevalent when

²⁶ OECD, *Designing New Trade Policies in the Transition Economies*, OECD/GD(97)199, 1997.

²⁷ WTO/ACC/7/Rev. 2 op. cit., p. 5.

countries are labeled as “non-market”. In the latter case, the country could qualify for S&D treatment to facilitate its integration into the world trading system.

The extent of government involvement and degree of privatization of the acceding country have proved a major determinant for effective accession. While the WTO Agreements do not have an explicit requirement that a member must have fundamentally a market economy, such a requirement is being imposed de facto by existing members as part of the leverage they have in the accession process for new members. Issues that have arisen in this context, for instance in the accession of the Russian Federation, include the jurisdiction and authority of national and local government agencies to implement policies to which commitments have been made. In particular the role of local authorities has proved a moot point.²⁸

Uncertainty about the status of an acceding country may lead to non-application of WTO provisions by the United States under the Jackson-Vanik Amendment referred to earlier. This amendment denies trade privileges to countries which are classified as “communist”. Georgia faced this dilemma upon accession. However, the US Government now has the authority to waive the amendment.

2. WTO-related organizational and bureaucratic problems

The WTO Technical Note referred to above also observes that it had been pointed out “that the accession was often too lengthy and too demanding for certain acceding governments; the fact-finding stage, particularly, appeared to be unduly long, inquisitorial and frequently repetitive”. As a result, the accession process is slow and cumbersome. The average time for accession has been more than five years for the last six countries which became WTO members.

Other factors that may delay the accession process include a lack of resources on the part of the WTO and Working Party members and conflicts within the Working Party regarding required commitments of the applicant. The large number of applicants, many of whom are in the early stages of accession, may limit the attention members can devote on a particular accession. This highlights, again, the need for acceding countries to be forthright in the information gathering stages and how the pace of accession is largely in the hands of the applicant.

In recognition of these problems, the WTO has taken steps to facilitate the accession process and cut the number of Working Party meetings for LDCs.

²⁸ *ibid.*

However, it should be pointed out that countries themselves need to be properly prepared for the accession process and be fully aware of the procedures and requirements.

3. Lack of national institutional capacity, skills and sustained economic reforms

The reforms and adjustments required by countries acceding to the WTO are time-consuming themselves and may delay outright membership. Other, related problems include the limited resources available for transition, and the limited analytical, policy-making and negotiating experience in the government institutions of most acceding countries, irrespective of the stage of their negotiations for WTO membership. These problems already arise in the phase of preparing the Memorandum on the Foreign Trade Regime. The major problems in this area are related to the need for collecting detailed information on the foreign trade regime and legal/institutional framework, the collection and translation of which are time-consuming and expensive while the transition process by itself would lead to frequent changes in the required information, data collection methods, or even governments (e.g. Armenia). Often, the infrastructure for the collection of reliable and accurate statistics is not well-developed and no standardized methods for the collection of such statistics are applied. The phase of questions and answers likewise is subject to delays due to limited technical and institutional capacities and available skills of acceding countries with economies in transition. In this context, particular problems have been encountered with regard to effective coordination of activities of all government agencies involved in the accession process in various countries.

Also, stagnating reform in the country does not make for speedy accession by definition. Broadly speaking, the more rapidly countries have introduced market-oriented reforms and liberal trade policies, the closer they are to becoming members of the WTO. As a result, Tajikistan, Turkmenistan and Uzbekistan, countries which have moved rather slowly with economic reform, also lag behind in the WTO accession process. In fact, Turkmenistan yet has to submit their official application in accordance with WTO established rules and procedures. The point is often raised that countries delaying their accession will only face tougher demands in the future. As such, countries would benefit from early application and membership. In this context, smaller countries like Georgia and Kyrgyzstan typically have found the accession process and the negotiations which were part of it, easier. In part this is because the smaller the country, the more likely it can ill afford a protective regime, and partly because small countries

typically pose fewer market access issues for major WTO members.²⁹ Sustained economic reforms would also qualify the acceding country for comprehensive technical assistance, not only from WTO but from its partners (IMF, UNCTAD, World Bank) as well.

Other delays and problems have arisen in all phases of the process due to the inherent complexities of enacting legislation and regulations that bring into conformity the regimes of transition economies with WTO rules. These extend far beyond the obvious such as the Law on Customs, the Tariff Schedule and related regulations on imports and exports, but also include items as the laws on joint stock companies, the Central Bank and financial institutions, licensing of economic activity, property rights, privatization and private sector operations, domestic taxation, regulations on food and alcoholic beverages, veterinary medicine and pests subject to quarantine, patent and copyright protection, consumer protection, etc. Design and enactment of all this legislation and regulations are quite demanding on the institutions of the acceding countries. On the other hand, the WTO accession process provides a useful stimulus for the review and consistency of the laws, rules and regulations in the acceding country which may otherwise not have happened.³⁰

Existing Members like Georgia and Kyrgyzstan and countries in the final stages of accession like Armenia are countries with fundamentally liberal trade regimes with significant progress in introducing market reforms. These countries have used the WTO accession as a vehicle to legally bind their tariff structure at reasonably low levels, close to their currently applied rates and make a significant number of commitments in opening up their services sector. Other countries like Kazakhstan and Uzbekistan have maintained the need for a certain level of protection to allow a smooth transition to a market economy. Accordingly they have presented initial offers that propose to bind tariffs at rates much higher than those currently applied, leave a number of sector unbound, and/or offered to make few commitments in maintaining their services sector open. Upon accession, higher bound tariffs can also be used as bargaining chips to obtain improved access to markets in future negotiating rounds. In short, their strategy appears to liberalize their trade as little as necessary to obtain WTO membership. However, such strategy can also delay accession. Kazakhstan had tabled a tariff offer on goods in June 1997, which was not deemed as an acceptable basis for negotiations by the Working Party members and as a result the process has stagnated ever since.³¹

²⁹ Constantine Michalopoulos, "The Integration of Transition Economies into the World Trading System", paper prepared for the World Bank and presented at the Fifth Dubrovnik Conference on Transition Economies, Dubrovnik, Croatia, 23-25 June 1999.

³⁰ *ibid.*

³¹ *ibid.*

4. Excessive and stringent demands from WTO members

A complicating factor is that aspiring countries are often requested to undertake more stringent obligations than existing WTO members while usually being less able to comply. In other words, because of their relative insignificance to the world trading system as a whole, countries with economies in transition have encountered tougher demands from WTO members than they would be able to implement without causing injury to their national economy. An OECD paper observes that “although each accession process is specific, reflecting the particular economic and trade structures of each country, the emerging common pattern includes the following set of requirements: (i) almost total binding of tariffs at considerably low levels; (ii) national treatment, including in the fiscal area, for goods and services; (iii) fair and transparent customs valuations; (iv) unbiased import licensing; (v) elimination of distorting export mechanisms; (vi) commitment to protection of intellectual property rights; (vii) negotiated market access in some specific sectors; (viii) transparent testing procedures for standards and certification; (ix) limitation of investment barriers; (x) to a lesser extent possible, the participation in plurilateral agreements, e.g. Government Procurement Agreement, and the acceptance of recent agreements, e.g. Information Technology Agreement”.³²

Acceding countries have to satisfy the commercial interests of all existing members which takes time. They are also typically requested to meet all commitments at entry, including in complex areas such as TRIPs, customs valuation, sanitary and phyto-sanitary regulations, standards etc. without the S&D provisions for existing developing country members. No time is allowed these countries to establish the required institutional and legal infrastructure to meet these commitments which are part and parcel of their overall transition to a market economy which is a long and painful process and cannot be forced overnight. As a result, acceding countries may agree to obligations, which prove difficult to implement and making them vulnerable to trade disputes and complaints.

In this context, countries like Georgia and Kyrgyzstan may have some second thoughts about the commitments they have made which may be beyond their capacity. This is particularly so in the areas of agriculture, which is of high importance to all economies in transition and developing countries in general, and services, which is a relatively new and unexplored area for many. However, given the importance of being part of the world trading system for these countries and intransigence on the part of the WTO Member Countries, acceding countries often have no choice but to accept the terms and conditions imposed by the current WTO Member Countries. Once again, countries have an interest in early

³² OECD, op. cit.

accession to avoid even tougher demands in the future and to extract their own demands for other acceding countries. For instance, Kyrgyzstan has benefited from early WTO membership by being able to participate in the negotiations on the accession of big neighbour and major trading partner China.

Thus, while acceding countries are to a large extent to blame for the slow accession process in various cases, the attitude and policies of Working Party members and other WTO members have also delayed the process, sometimes unduly. In some cases, opposition from particular member countries to membership of a particular country may scuttle the application of the aspiring member as a result of the rule that applications must be accepted by consensus.³³ This has prompted calls for the abolition of the consensus rule. In most cases, existing members demand that acceding countries bind all tariffs while existing developing country members enjoy considerable exceptions to such bindings. The calculation of acceding members commitments, in particular in the area of agriculture is also hampered by the lack of reliable and accurate statistical information.³⁴

The negotiations phase can, and frequently has been, the most time-consuming phase of the accession process as a result of either attitudes and policies of the acceding countries or demands from existing WTO members or both. With regard to acceding country strategy and tactics it can be observed that there is considerable leeway for the acceding country to liberalize its trade regime. The key decisions countries have to make relate to the level at which countries bind their tariffs, the support they provide to agriculture and the range of commitments in the liberalization of trade in services. Broadly speaking the more liberal the tariff regime, the less support provided to agriculture, and the greater the number of commitments countries are prepared to make in the area of services, the easier the accession negotiations.³⁵

5. Conflicting commitments under RTAs and other international agreements

Another problem relates to membership of acceding countries in other economic groupings or regional trading arrangements (RTAs), in particular the

³³ This was for instance the case with the Islamic Republic of Iran.

³⁴ Accession involves in part commitment to aggregate measures of support to agriculture relative to a "representative" period, usually the three years prior to the application for accession. Such commitments are usually based on data which contain serious statistical and economic shortcomings. For example, the three years prior to the accession application frequently coincide with the early 1990s when these countries were in the midst of hyperinflation and their exchange rates were unstable and could hardly be viewed as representing "equilibrium". Similar problems arise if the late 1980s are used as "representative" (footnote 15 in Michalopoulos, *op. cit.*).

³⁵ *ibid.*

Central Asian Economic Community (CAEC) which consists of Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan. Both Kazakhstan and Uzbekistan have unilaterally imposed restrictions on each other's and other Central Asian countries' exports in 1999 and, as a result, the CAEC only exists on paper. However, membership in any RTA requires the approval from the WTO for WTO members. Specifically, WTO members are concerned that tariffs and other regulations as applied to third parties outside the RTA are not on the whole higher or more restrictive. Kyrgyzstan, as the only Central Asian WTO member has received a lot of criticism from other CIS states, in particular Kazakhstan, about its WTO membership which has led to discrimination against exports from Kyrgyzstan. WTO membership of course will conflict with many of Kyrgyzstan's obligations as member of two trading blocs within the CIS.³⁶ On the other hand, given the lack of transparency of most RTAs and trade agreements among CIS countries and other economies in transition, the accession process would lead to some clarification to the benefit of the acceding countries concerned.

It should be pointed out that the WTO was willing to allow the accession of Georgia and Kyrgyzstan without reaching any conclusions as to whether the trading arrangements of these countries with other CIS states are compliant with Article XXIV of GATT. However both countries notified their RTAs to the WTO Committee on Regional Trade Agreements (CRTA) to have them examined.³⁷

Apart from RTAs, many countries have commitments with the IMF and other lending agencies as condition for IMF loans which may conflict with their commitments under WTO. Kazakhstan, for instance, experienced this problem. It is therefore important to ensure consistency of commitments made by a country under various international agreements.

E. Conclusions and recommendations

As pointed out in the previous section, the accession process is complicated, long and demanding. Most countries in the process of accession today face the reality that they need the multilateral trading system but the system does not really need them. As a result, the granting of WTO membership has become

³⁶ EIU, Country Profile Kyrgyz Republic, 2000.

³⁷ Kyrgyzstan has notified bilateral agreements with Moldova, Russian Federation, Ukraine and Uzbekistan and a "plurilateral" "Customs Union" Agreement with Belarus, Russian Federation and Kazakhstan. Also notified on October 1, 1999 (presumably by Kyrgyzstan although this is unclear) and "under examination" is the Agreement among Azerbaijan, Armenia, Belarus, Georgia, Moldova, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan, Ukraine, and Uzbekistan. This Agreement, which is listed as entering into force on December 30, 1994, is presumably the agreement creating a "Free Trade Area" (Aliyev, 2001).

a special privilege for which acceding countries may have to pay dearly. There is really no miracle prescription which would render the accession process easy. As the tenet goes, no pain no gain. However, a few recommendations can be summarized which would at least facilitate the process.

1. Before starting the process, countries should be committed to a rigorous exercise and be prepared to make fundamental changes in their legal and institutional framework and implement major structural economic reforms; Political will and commitment is an absolute requirement for smooth accession;
2. During the accession process, acceding countries should make active use of their observer status to get experienced with Working Party proceedings and negotiations and understand the kind of demands and questions they will face when it is their turn;
3. Countries should mobilize the necessary resources, both financial and in kind, to fund the accession process. Many meetings will have to be attended, many delegates will have to be sent to Geneva and on bilateral missions. A realistic cost analysis should be undertaken before starting the accession process;
4. Countries should demonstrate their willingness to participate in the world trading system by making legislative changes, e.g. in areas like intellectual property rights, and tariff reductions before starting the accession process. Transparency and predictability should be the guiding principles for legal reform. However, care should be heeded not to implement too many liberalization measures before the accession process so as to maintain some important bargaining chips during the negotiations;
5. Ample attention should be paid to appropriate human resources development. Acceding countries need to get together a solid and competent trade negotiating team. Acceding countries should take active part in trade policy and other WTO-related courses organized by WTO and other multilateral organizations; specialist knowledge and expertise for each specific agreements need to be developed;
6. Before starting the negotiations, acceding countries need to consolidate their positions and lay out clear boundaries beyond which no further concessions are possible; in this context, countries need to be aware of all implications of their commitments, obligations and concessions for national economic development before making important decisions;
7. In this context, acceding countries should establish the proper institutional framework for the accession process, ideally one body or committee consisting of senior officials of all concerned government

- bodies, ministries and agencies. Such a body would coordinate all government work related to the accession process and WTO issues in general;
8. Accessing countries should informally consult their major trading partners before and during the formal Working Party discussions in order to facilitate the formal proceedings;
 9. Accessing countries should make sure that their commitments under various regional trading arrangements are compatible with those made for WTO membership. Frequent consultations with other member countries in regional trading arrangements is therefore called for so as to avoid later conflict;
 10. Accessing countries sharing similar characteristics such as Kazakhstan and Uzbekistan should consolidate their positions in the negotiation process in the WTO and cooperate in the accession process. Together they form a huge economic area which is of interest to other WTO members; common positions should be formulated within the framework of the Customs Union or even CIS;
 11. Information centres on WTO and specialized areas such as standardization, sanitary and phyto-sanitary services, intellectual property rights should be established at the national level with small centres in concerned government agencies and ministries;
 12. While delays may lead to undue demands, accessing countries should proceed with the accession process at a sustainable pace. They should make sure they understand the demands and obligations with their full implications before committing themselves;
 13. Accessing countries should prepare all required information as comprehensive and informative as possible but avoid too much detail as such details could lead to further questions, further demands and further delays;
 14. Accessing countries should ensure that their concessions and commitments made under the WTO accession process are consistent with other international obligations (e.g. IMF loans).

In conclusion, countries in accession to WTO need to prepare themselves thoroughly for the process, which is expected to be a long, hectic and demanding exercise. Without a clear government commitment to market reforms and WTO membership, WTO membership will not be obtained and the process will likely result in frustrations rather than benefits. However, with the right attitude and political will, the accession process is likely to be relatively smooth. Countries would have to be careful not to make concessions which would severely undermine their economic development and unduly compromise strategic sectors. Forging

effective partnerships with the private sector and frequent consultations with all economic actors will ensure that countries can formulate comprehensive and consolidated positions and arguments during the negotiations.

While the short-term implications of WTO membership will probably indicate a prevalence of costs over benefits, the long-term benefits stand to outweigh costs by far. Not only does WTO membership provide smaller, more vulnerable countries, better protection, non-discriminatory MFN treatment, and a recourse to the rule of law, it also provides much better access to international markets, a boost to domestic reforms and economic development, while at the same time it allows for many exceptions under various S&D clauses and technical assistance. In an era of unbridled and irreversible globalization, no country can really afford to stay outside the multilateral trading system at the risk of being marginalized and severely handicapped in efforts to develop its national economy. WTO membership would allow countries to actively participate in Working Party proceedings for accession of new countries and field their own demands. And finally, WTO membership would allow countries to actively participate in a new multilateral trade round, which will inevitably be launched sooner or later, and defend their national interests. Any delay in accession will result in greater costs and countries are therefore urged to accelerate their accession as much as possible.

While acceding countries can do much to accelerate their accession, the WTO and other multilateral organizations also have a major responsibility through technical assistance activities and, as far as WTO is concerned, streamline bureaucratic procedures for admission and establish specific units designated to specific countries. In this context, it has been suggested to expand the staff of the WTO division to cater to specific countries' need for assistance and advice. While the notion of so-called "fast track" procedures for transition economies has been explored, the implementation of such procedures will be hampered by the lack of capacity to initiate reforms and financial resources of the countries concerned.³⁸ Rather, current initiatives to set up a Centre for technical assistance to non-resident WTO members, i.e. members which cannot afford or do not maintain a permanent mission in Geneva, should be actively supported by WTO.

³⁸ The idea of "fast-track" procedures was first suggested by the European Union to accelerate the accession process for LDCs. The idea was followed up by the ECE for economies in transition which had been able to accelerate their internal reforms. The approach would "involve radically streamlined review and evaluation procedures, more frequent meetings of the Working Parties, and flexible, individual schedules for individual countries" (Economic Commission for Europe (ECE) document, Committee for Trade, Industry and Enterprise Development, Fourth Session, 21-23 June 2000).

Finally, with regard to existing WTO members, in particular the developed countries, more consideration should be heeded to the condition and predicaments of the economies in transition, which according to some criteria may strictly speaking be not developing countries, but according to others are far from being developed. In addition, these countries deserve special treatment due to their transition process which is also long and difficult and incurs heavy social costs. In this context, the demands from other WTO members in the Working Party proceedings and otherwise to acceding countries with economies in transition should be reasonable with due regard to each country's capabilities and unique economic conditions and constraints.

APPENDIX

Table 18. Selected economic indicators, selected economies in the region

Country	GDP per capita (US\$, 1999)	GDP growth (per cent, 1999)	Population (millions 1999)	Illiteracy (per cent of people 15 and above 1998)		Life expectancy at birth (years) 1998		Population below the poverty line (per cent)
				males	females	males	females	
<i>Group A</i>								
Armenia	500	3.3	4	1	3	71	78	..
Azerbaijan	500	3.5	8	..	..	68	75	68.1 (1995)
Georgia	813 ^e	3.0	5	..	..	69	77	..
Kazakhstan	1 880	1.7	15	..	..	59	70	34.6 (1996)
Kyrgyzstan	260	3.6	5	..	..	63	71	51.0 (1997)
Tajikistan	180	3.7	6	1	1	66	71	..
Turkmenistan	1 890	16.0	5	..	..	63	70	..
Uzbekistan	640	4.1	25	7	17	66	73	..
China	830	7.1	1 250	8	25	68	72	4.6 (1998)
Mongolia	390	3.5	3	28	49	65	68	36.3 (1995)
Lao People's Democratic Republic	250	7.3	5	38	70	52	55	46.1 (1993)
Viet Nam	330	4.7	78	5	9	66	71	50.9 (1993)
<i>Selected ASEAN/NIES</i>								
Malaysia	3 740	5.1	23	9	18	70	75	15.5 (1989)
Republic of Korea	8 680	10.7	47	1	4	69	76	..
Singapore	22 190	5.4	3	4	12	75	79	..
Thailand	2 040	4.2	62	3	7	70	75	13.1 (1992)

Source: Economist Intelligence Unit; World Bank, World Development Report 2000/2001, World Bank.

Note: e estimate.

Table 19. Trade and integration indicators selected Economies in Asia

Country	Exports (per cent of GDP 1999)	Imports (per cent of GDP 1999)	Trade Balance (per cent of GDP)	Main Export destination (per cent of total exports)	Main Export item (per cent of total exports 1999)	Status of WTO Accession
<i>Group A</i>						
Armenia	9.4	42.0	-32.6	Belgium (36.1)	(semi) precious metals/stones (23.8)	Final stage
Azerbaijan	25.6	35.8	-10.2	Italy (33.7)	Oil products (76.0)	Final stage
Georgia	5.4 ^e	13.3 ^e	-7.9 ^e	Russian Federation (18.7)	Metals (23.5)	Member
Kazakhstan	38.0	35.4	2.6	Russian Federation (19.8)	Oil/oil product (40.9)	Advanced stage
Kyrgyzstan	37.8	45.0	-7.2	Germany (32.7)	Non-ferrous metallurgy (47.9)	Member
Tajikistan	62.6	60.3	2.3	Europe (62.1)	Aluminium (40.0)	Applied
Turkmenistan	14.3	17.8	-3.5	Ukraine (27.0)	Gas (33.0)	Not applied
Uzbekistan	18.1	19.4	-1.3	Russian Federation (13.0)	Cotton (41.5)	Advanced stage
China	18.3	15.6	2.7	United States of America (21.5)	Machinery and transport (58.8)	Final stage
Mongolia	46.4	52.2	-5.8	China (58.2)	Copper (26.0)	Member
Lao People's Democratic Republic	18.2 ^a	37.1 ^a	-18.9 ^a	Japan (71.0) ^b	Garments (28.6) ^a	Applied
Viet Nam	41.3	41.7	-0.4	Japan (15.5)	Crude oil (18.2)	Applied

Table 19. (continued)

Country	Exports (per cent of GDP 1999)	Imports (per cent of GDP 1999)	Trade Balance (per cent of GDP)	Main Export destination (per cent of total exports)	Main Export item (per cent of total exports 1999)	Status of WTO Accession
<i>Selected ASEAN/NIEs</i>						
Malaysia	102.0	78.1	23.9	United States of America (21.6)	Electronics/electrical machinery (41.3)	Member
Republic of Korea	35.7	28.7	7.0	United States of America (20.5)	Electrics/electronics (31.9)	Member
Singapore	78.6	70.9	7.7	United States of America (19.2)	Machinery and equipment (65.0)	Member
Thailand	45.1	34.0	11.1	United States of America (22.3)	Computers and parts (14.1) b	Member

Source: Economist Intelligence Unit (EIU) Country Profiles and Reports; IMF, International Financial Statistics, November 2000; Asian Development Bank, Asian Development Outlook 2000, ADB 2000.

Note: a: 1997; b: 1998; c: estimate.

Table 20. Status of WTO accession, economies in transition

Phase	Country	Armenia	Azerbaijan	Georgia	Kazakhstan	Kyrgyzstan	Tajikistan	Turkmenistan	Uzbekistan
Application		November 1993	June 1997	July 1996	January 1996	February 1996	May 2001	Not applied	December 1994
Working Party Established		December 1993	July 1997	July 1996	February 1996	April 1996			December 1994
Memorandum		April 1995	April 1999a	April 1997	September 1996	August 1996			October 1998 October 1998 February 2000a
1 st Meeting of Working Party		January 1996		March 1998	March 1997	March 1997			
Tariff Offers		January 1996		February 1998 October 1998	June 1997 May 2000	June 1997			
Services Offers		October 1998		December 1998	September 2000				
		January 1999		February 1998	September 1997	September 1997			
		June 1999		May 1998	May 2000				
		October 1999		September 1998	September 2000				
Agricultural Data		March 1997		May 1999	July 1997	June 1997			
		March 1999		November 1997	September 2000				
Draft WP Report		March 1997*		October 1998		April 1998			
		March 1998		February 1999					
		February 1999		May 1999					
		June 1999							
		August 1999							
		November 1999							
Adoption of Report by WP				October 1999		July 1998			
Report adopted by General Council				October 1999		October 1998			
Membership				14 June 2000		December 1998			

Source: WTO, Technical Note WT/ACC/Rev. 2, 1 November 2000; Kyrgyzstan: Country Consultant.

* Elements of report: a: questions and replies: Azerbaijan: 14 July 2000, Uzbekistan: October 1999, April 2000.

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III. COUNTRY PAPERS ON ACCESSION TO THE WTO

A. Armenia³⁹

1. Introduction

This study was prepared for the Subregional Workshop on Accession to WTO – Economies in Transition, which was organized by the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) in cooperation with the Ministry of Foreign Economic Relations of the Government of Uzbekistan in Tashkent from 25 to 27 July 2001. The workshop discussed experiences of newly acceded WTO members as well as of the countries that are still in the WTO accession process.

Forty-three countries have applied to accede to the WTO since January 1995 when the WTO came into force. Thirteen of these countries have completed the accession procedures and have become WTO members. The accession process is complex and may take a long time. The shortest of these accessions took 34 months (Kyrgyzstan) and the longest 123 months (Bulgaria), or between approximately two and ten years.⁴⁰ The accession process is a quite challenging task for acceding countries as it involves wide-ranging informative, legislative and executive activities by governments, and implies taking long-term commitments that affect their trade and economic policies. The governments of acceding countries understand the importance of integration into the world trading system and recognize the role of WTO rules in the integration process. However, while trying to provide the compliance with WTO disciplines they have to find solutions balancing the WTO commitments and the rights obtained, taking into consideration the specific needs deriving from the economic and social situation in their countries.

Many of the applicant countries are in the process of transition towards a market economy. Alongside with other common difficulties, the transition countries have to deal also with the fact that WTO disciplines do not address the needs of transition economies. At the same time the WTO provisions providing more advantageous conditions for developing countries are not automatically extended to transition countries.

³⁹ Based on a paper prepared by Mr. Gagik Gabrielyan, Expert on Technical Assistance for the Commonwealth of Independent States (TACIS), Armenia.

⁴⁰ WTO (1999) (2000), Technical Note on the Accession Process (Note by the Secretariat).

The Republic of Armenia is one of the Former Soviet Union (FSU) countries which started the transition process in 1991. Liberalization and integration into the world trading system were the main directions of Armenia's foreign trade policy, pursuant to which Armenia applied for GATT (WTO) membership in 1993. Presently, Armenia's WTO accession process is in an advanced stage: bilateral negotiations on trade in goods and services are finalized with all negotiating partners, and considerable work is done to bring Armenia's legislative and regulatory system into conformity with the WTO principles and requirements. However, there have been number of problematic issues during the negotiation process, some of which are not settled yet. Part of the difficulties faced by Armenia are common among transition countries, while others are specific and attributable to the situation in the country.

The overall objective of this paper is to analyze Armenia's WTO accession process with the aim to: a) show the evolution of Armenia's trade policies and related legislative and institutional reforms within the framework of WTO accession; b) highlight the main challenging issues dealt with during the WTO accession process and those that are still to be dealt with; c) make an assessment of the current state of the accession process; and d) give recommendations to facilitate Armenia's WTO accession.

For these purposes, section 2 reviews trade policy implemented in Armenia over the last 10 years as well as the relevant legal and institutional framework. Section 3 analyzes the process and the current status of Armenia's accession to the WTO. Section 4 summarizes the main conclusions and recommendations based on the analysis made in the previous sections.

2. Review of past and current trade and trade policies

Since declaring independence in 1991, Armenia has vigorously pursued free market reforms within a democratic framework, notwithstanding acute political and economic difficulties. Economic decline had been reflected in sharp reductions in output, falling incomes, reduced trade flows, severe shortages of energy, and scarcity of food and other consumer goods. Despite this adversity, the Government of Armenia has persevered with the economic reform programme, placing particular emphasis on liberalization, stabilization, and economic restructuring.

(a) Foreign trade

During the Soviet period trade flows were determined on the basis of the framework of the centralized economic system, under which Armenia had the opportunity to meet domestic demand by importing products at advantageous

conditions and prices that were lower than the existing world prices. After the collapse of the Soviet Union the former trade links were disrupted and trade decreased drastically. Moreover, due to the inefficiency of the foreign trade performance, prices of major imported raw materials increased up to the world prices, and those of consumer goods above the world prices. In this situation importation on a competitive basis became vital for meeting domestic demand. Consequently, in order to overcome the difficulties, the Government of Armenia adopted a liberal trade policy.

As a result of free international competition substantial shifts occurred in the foreign trade flows during the recent years. New trade links emerged in parallel with the existing ones with FSU (or CIS-Commonwealth of Independent States) countries, from which the most important ones were European Union countries (with 45.6 per cent of exports and 31.6 of imports in 1999), Middle East countries (from which the Islamic Republic of Iran only counted for about 15 per cent of exports and 10 per cent of imports in 1999), the United States of America with about 7 per cent of exports and 10 per cent of imports in 1999 (table 20).

Trade with CIS countries has been decreasing during recent years, while trade with other trading partners, especially with the European countries, has been steadily increasing. Exports of goods to CIS countries decreased from 62.6 per cent of total exports in 1995 to 24.75 per cent in 1999. Exports of goods to European Union countries increased from 17.8 per cent of total exports in 1995 to 45.7 per cent in 1999. Imports from CIS countries decreased from 49.6 per cent of total imports in 1995 to 21.9 per cent in 1999. Imports from European Union countries increased from 13.2 per cent of total imports in 1995 to 31.6 per cent in 1999.

In order to maintain and further develop the newly emerged trade links Armenia has developed a network of plurilateral and bilateral trade agreements with various countries (see the detailed description of trade agreements below). Presently, Armenia maintains commercial relations with more than 103 states. Foreign trade in goods as a proportion of GDP was 56 per cent in 1999, with 22.6 per cent of exports and 77.4 per cent imports. The negative trade balance made 30.7 per cent of GDP in 1999.

The major exported commodity groups and their proportion in the total exports in 1999 were: processed and raw diamonds, splinters of precious metals and jewelry – 42.78 per cent, mineral products – 16.77 per cent, non-precious metals and goods made of them-10.7 per cent, textile products – 5.87 per cent, machines, equipment and mechanisms – 7.51 per cent, ready food products – 6.92 per cent. Armenia's exports are highly concentrated with the first 3 product

groups mentioned above accounting for more than 70 per cent of total exports. Another characteristic of Armenia's exports is that they are predominantly raw materials and semi-processed goods. There is limited export of value-added goods. The commodity composition of Armenia's exports have remained constant over recent years with the top six product groups mentioned above accounting for over 90 per cent of exports in 1999.

For imports the major commodity groups and their proportions in 1999 were: food products, products of vegetable and animal origin – 26.53 per cent, mineral products – 21.41 per cent, processed and raw diamonds, splinters of precious metals and jewelry – 10.82 per cent, machines, equipment and mechanisms – 10.85 per cent, products of chemical and related to it industries – 8.84 per cent.⁴¹

(b) *Current trade regime*

(i) *Import regime*

There are only two tariff rates applied on imports of goods – 0 and 10 per cent. Armenia's custom tariffs are expressed in *ad valorem* terms and levied on c.i.f. values. More than 60 per cent of the items in the tariff schedule are subject to 0 per cent duty rate giving Armenia a weighted average tariff of 4 per cent. The general approach in applying customs tariff is that raw materials, capital goods and intermediate products are subject to 0 per cent duty rate, and final products are subject to 10 per cent duty rate. There are exceptions only for imports of tobacco products and fuel products, on which fixed charges are levied (consisting of VAT, excise tax and, for tobacco products, also customs duties), and alcoholic beverages on which customs duties are levied on specific base.

A uniform customs fee of about US\$ 6.5 for customs processing and specific weight related fee of US\$ 0.55 per ton for freight inspection are applied to imports. There are two taxes imposed on imports and domestic production – the value added tax on the turnover of goods and services, and the excise tax on certain goods.

Armenia does not apply quantitative restrictions (quotas or tariff rate quotas) on imports, and does not maintain a system of minimum import prices.

In general there are no import licensing requirements in Armenia and companies are able to import freely. The only exceptions are: pharmaceutical products and medicines, phytoprotection chemicals which are regulated in the

⁴¹ The numbers are from the Annual Reports of the State Statistical Agency of Armenia.

interest of public health and safety, and weapons and nuclear materials relating to security.

On the grounds of health and hygiene, as well as for protection of consumer rights there are compulsory standards applied to a range of foodstuffs, electrical goods, alcoholic and non-alcoholic beverages, tobacco products, and children's clothes, etc.

(ii) *Export regime*

There are no export restrictions and export taxes in Armenia, and there is no system of minimum export prices. As on the import side most exports are free of any prohibitions or quotas. Export restrictions are imposed for health, security, and environmental reasons. The items affected are weapons, nuclear materials pharmaceuticals, rare animals and plants, rare objects or artifacts considered part of the national patrimony. Exports of textiles and clothing to the European Union are subject to licensing under a bilateral agreement with the European Union.

(c) *Trade policies and policies affecting trade, legislative and institutional framework*

Integration into the world economy, and continuing diversification of Armenia's economic relations with other countries, were central to the Government's reform efforts. The Government of Armenia believed that these objectives could only be attained through open trade policies that emphasized specialization on the basis of international comparative advantage. Pursuant to its foreign trade policies the Government of Armenia underwent a comprehensive reform process towards establishing market based competition through continuing privatization, liberalization of prices and trade and foreign exchange regimes, the dismantling of state trading and interstate clearing arrangements, and the elimination of obstacles to private sector development.

(i) *The customs policy and the customs system*

Since the beginning of the reform process Armenia's customs legislation and the customs system experienced substantial modification and improvement, which to a large extent were achieved within the framework of accession to WTO. The Customs Department of Armenia was established in 1992. Presently, the Customs Department operates under the Ministry of State Revenue of Armenia, which is responsible for implementation of customs and tax policies. The territory of Armenia is divided into 5 customs regions with 5 customs houses that operate

10 customs posts. In order to import, importers shall provide a pro forma invoice or a contract indicating the specifications, quantity and value of goods, and shall complete a customs declaration.

Customs legislation has been adjusted continuously in order to bring it to internationally accepted standards. The new Customs Code that entered into force in January 2001 replaced the previous legislative acts regulating the customs matters and combined them in one comprehensive act.

Since 1993 only 132 items were identified in Armenia's tariff schedule, and products were mainly identified in two-digit level. There were five tariff rates applied on imported goods – zero, 5 per cent, 10 per cent, 30 per cent and 50 per cent. Only few items were subject to 30 and 50 per cent tariff rates, and the weighted average tariff was below 5 per cent in 1994.

Following the Government's liberalization policy, the system of five tariff rates was terminated in 1997, and only two tariff rates remained – 0 and 10 per cent. As a result of ongoing disaggregation the number of items in the tariff schedule was increased up to 279, and included four and greater digit levels.

Improvements in Armenia's customs fee regime applied to imports can be considered as a good example of gradual improvement aimed at achieving WTO compliance. Thus, since December 1993 a 0.15 per cent customs fee was charged on the tariff-inclusive value of imported products, which was then increased to 0.3 per cent in 1996. The introduction of the customs fee system was conditioned with the necessity to raise funds for the creation and strengthening of material and technical basis needed for the development of Armenia's customs regime. In 1997 an upper limit equal to US\$ 1,200 was introduced, and since 1999 the *ad valorem* principle of charging customs fees was abandoned and replaced with a uniform fee of about US\$ 6.5 for customs processing and specific weight related fee of US\$ 0.55 per ton for freight inspection.

Armenia's system of customs valuation is based on the transaction value. The Customs Code stipulates that the primary method for determination of the customs value is the transaction value method, and provides for the same six methods of valuation laid out in the Agreement on Implementation of Article VII of the GATT 1994 (Customs Valuation Agreement).

A major change was also introduced in the tax regime applied to imported products. In particular, two indirect taxes⁴² are imposed on imports and domestic

⁴² Armenia's tax system has been completely overhauled since 1992, as part of the Government's overall policy of economic transformation towards a market economy. The following taxes are currently applied in Armenia: value added tax; excise tax; profit tax; income tax; property tax; land tax.

production – the value added tax (with a 20 per cent rate on the turnover of goods and services), and the excise tax on certain goods. Since 1993 Armenia had been applying the origin principle of charging the VAT and the excise tax on imports, which implied that imports from CIS countries were exempt from the mentioned taxes, while import of other origin were taxed. In 1997, in order to meet the WTO requirements, Armenia terminated the origin principle and started to apply the destination principle thus ensuring MFN principle in the application of taxes to imports.

(ii) *Non-tariff regulations*

Non-tariff measures in Armenia are regulated by Decree No. 124, 29 December 1995, according to which most imports are free of any prohibitions or quotas. As noted earlier, the import and export restrictions are imposed for health, security, and environmental reasons. The importation and exportation of all kinds of weapons, and nuclear materials is carried out through authorization issued by the Government of Armenia. Permissions for importation of pharmaceutical products and medicines, as well as phyto-protection chemicals are given by the Ministry of Health and the Ministry of Agriculture of Armenia, respectively (the list of items affected was renewed by Government Decree 581, 20 September 2000). Imported or exported pharmaceutical products, medicines and agricultural chemicals must be registered in Armenia.

Armenia has not applied quantitative restrictions (quotas or tariff rate quotas) on imports and exports, and does not maintain a system of minimum import prices. Exports of textiles and clothing to the European Union have been subject to licensing under a bilateral agreement with the European Union. The licensing of textile and clothing exports to the European Union allowed these items to be monitored, but they are not currently subject to restrictions of any kind.

In order to prevent exports at artificially low prices, or the under-invoicing of exports minimum, export prices had been used as a reference base for tax purposes (the commodities affected had been ferrous and non-ferrous metals). However, the practice of minimum reference prices was eliminated in mid-1999.

(iii) *Other trade related policies*

Privatization and Demonopolization. The privatization process started in the beginning of 1991, and about 7000 small and over 1500 medium and large enterprises had been privatized by 2000. Almost 70 per cent of agricultural land is in private hands, and land titles are freely transferable.⁴³ Demonopolization

⁴³ Ministry of State Property Management of Armenia; Ministry of Agriculture of Armenia.

and deregulation removed barriers to private sector participation in all but a few areas of economic activity. With certain exceptions necessary to safeguard human, animal and plant health and the environment, the former state monopoly in foreign trade in Armenia was abolished in 1989, and was replaced by a registration requirement for the conduct of such activity. All enterprises registered and operating in the territory of Armenia, regardless of their form of ownership, were granted the right to conduct foreign economic activity without any additional registration requirements.

Price Policy. Almost all government-mandated price control has been eliminated and prices only for a limited number of essential goods and services are subject to regulation. The only domestic prices subject to regulation are those for irrigation, urban electrical transport, electricity, hot water, gas, heating, sewage services, garbage collection, rent in state owned housing, and telephone services. In 1995 price controls on salt and medicines, bread, and air freight for state needs were eliminated.

Foreign Exchange and Payments. Until the end 1994 Armenia maintained a 50 per cent surrender requirement with respect to export receipts, which was reduced to 30 per cent in 1995, and was eliminated shortly after. In 1997 Armenia accepted Article VIII of the IMF Agreement and committed to refrain from imposing restrictions on carrying out payments and transfers, and from engaging in discriminatory currency arrangements or multiple currency practices without IMF approval. Presently, the Central Bank of Armenia establishes the daily exchange rate as a midpoint of the previous day's buying and selling operations in foreign exchange market. Foreign exchange dealers are free to establish their own exchange rates for transactions.

(iv) *Quality standardization, metrology and conformity assessment system*

Relevant laws regulating the national systems of standardization, metrology and certification systems included the Law on Standardization and Certification and the Law on Uniformity of Measurements adopted in 1997. The Department of Standardization, Metrology and Certification (SARM) was appointed as the coordinator of standardization, metrological and certification activities in Armenia. Its responsibilities included the creation and administration of national standardization and certification systems; the adoption of national standards and classifications; the application of international standards; the publication of official information in the fields of standardization and certification; accreditation of certification bodies and testing laboratories; dealing with appeals and disputes on certification matters, etc.

Table 20. Armenia: Dynamics of trade flows during 1994-1999 (in million US\$)

	1994		1995		1996		1997		1998		1999													
	Exp	Imp	Exp	Imp	Exp	Imp	Exp	Imp	Exp	Imp	Exp	Imp												
	Value	Perc	Value	Perc	Value	Perc	Value	Perc	Value	Perc	Value	Perc												
Total of which	209	100	40.12	100	271	100	673.9	100	290.3	100	856	100	232.5	100	892.3	100	902	100	233.5	100	801.7	100		
CIS	145	69.4	219.6	54.7	170	62.6	33.4	49.6	128.1	44.1	278	32.4	94.7	40.7	299.1	33.5	80.5	36.5	230	25.5	57.8	24.75	173.6	21.9
Belarus					0.9	0.33	1.9	0.28	1.2	0.41	2.2	0.26	1.1	0.47	3.3	0.37	0.8	0.36	1.8	0.2	1.06	0.454	0.64	0.08
Georgia					2.8	1.03	61.8	9.17	6.9	2.38	51.2	5.98	10.7	4.6	38.2	4.28	9.6	4.35	26.8	2.97	11.24	4.814	26.9	3.36
Kazakhstan					1.6	0.59	0.1	0.01	1	0.34	0.1	0.01	0.9	0.39	2.1	0.24	0.4	0.18	0.5	0.06	0.5	0.214	0.57	0.07
Kyrgyzstan					0.01	0	0.04	0.01	0.006	0	0	0	0.05	0.02	0.01	0	0.04	0.02	0.01	0	0.04	0.017	0.001	0
Russian Federation					90.8	33.5	135.1	20	96.1	33.1	126	14.7	62.9	27.1	215.9	24.2	40	18.1	19.1	21.2	33.8	14.48	138.3	17.3
Tajikistan					0.1	0.04	0.01	0	0	0	0	0	0.04	0.02	0.03	0	0	0	0.02	0	0	0	0	0
Turkmenistan					68.7	25.4	129.3	19.2	17.5	6.03	86.4	10.1	13.8	5.94	27.7	3.1	22.7	10.3	0.6	0.07	6.7	2.869	0.78	0.1
Uzbekistan					0.3	0.11	0.09	0.01	0.4	0.14	0.2	0.02	0.2	0.09	0.2	0.02	0.4	0.18	0.1	0.01	0.24	0.103	0.36	0.04
Ukraine					4.5	1.66	5.4	0.8	4.9	1.69	12	1.4	3.5	1.51	11.5	1.29	4	1.81	8.9	0.99	2.1	0.899	7.9	0.99
Moldova					0.03	0.01	0.1	0.01	0.1	0.03	0.1	0.01	0.2	0.09	0.1	0.01	0.04	0.02	0.07	0.01	0.2	0.086	0.07	0.01
Azerbaijan					0	0	0	0	0	0	0	0	0	0	0	0.1	0.01	0	0	0.15	0.02	0	0	0
European Union					48.3	17.8	88.8	13.2	61.9	21.3	133	15.5	66.4	28.6	176.8	19.8	76.3	34.6	259	28.7	106.6	45.65	253.7	31.6
Belgium					30.8	11.4	15.6	2.31	44.7	15.4	49.5	5.78	47	20.2	49.7	5.57	49.8	22.6	54.6	6.05	84.25	36.08	85.2	10.6
France					0.2	0.07	16.3	2.42	0.4	0.14	12	1.4	0	0	19.5	2.19	0.07	0.03	27.4	3.04	0.52	0.223	12.3	1.53
Germany					10.1	3.73	11.3	1.68	3.7	1.27	17.4	2.03	9.3	4	26.2	2.94	9.3	4.22	34	3.77	10.2	4.368	34.6	4.32
Ireland					0.5	0.18	1.7	0.25	0.2	0.07	2.4	0.28	0.1	0.04	0.8	0.09	0.3	0.14	8.1	0.9	0.08	0.034	1.4	0.17
Italy					0.1	0.04	22.4	3.32	0.1	0.03	26.2	3.06	0.4	0.17	36.2	4.06	0.4	0.18	34.6	3.83	1.44	0.617	23.7	2.96
Netherlands					5.3	1.96	6	0.89	8.7	3	5.7	0.67	6.2	2.67	15.4	1.73	7.9	3.58	9.6	1.06	0.44	0.188	5.1	0.64
United Kingdom					1.3	0.48	2.2	0.33	3.2	1.1	7.1	0.83	1.2	0.52	10.5	1.18	8.1	3.67	69.1	7.66	9.4	4.026	67	8.36
Other					0	0	13.3	1.97	0.9	0.31	12.4	1.45	2.2	0.95	18.5	2.07	0.4	0.18	21.7	2.4	0.27	0.116	24.4	3.04
Islamic Republic of Iran					35	12.9	89.8	13.3	43.9	15.1	150	17.5	42.6	18.3	88.7	9.94	31.4	14.2	63.9	7.08	34.2	14.65	78.5	9.79
United States					0.6	0.22	114.4	17	4.4	1.52	104	12.1	7.1	3.05	116.1	13	11.6	5.26	96.3	10.7	16.2	6.938	85.7	10.7
Other					17.4	6.42	46.9	6.96	52	17.9	192	22.4	21.7	9.33	211.6	23.7	20.7	9.39	253	28	18.7	8.009	208.2	26

Source: Annual reports of the State Statistical Agency of Armenia.

Armenia's system of standardization and conformity assessment⁴⁴ inherited the attributes of the former Soviet System, with the application of compulsory standards and with one state body responsible for policy formulation, policy implementation as well as for monitoring the implementation of its policy. The old system did not meet the needs of a market economy, and thus had to be adjusted to be in compliance with the internationally accepted standards.

In the framework of appropriate reforms in the system, new legislative acts were adopted by the end 1999-beginning 2000: the Law on Standardization, the Law on Conformity Assessment, the Law on the Uniformity of Measurements, and Government Decree No. 9 on Technical Regulations. These legislative acts serve as a basis for development and implementation of QSMCA (Quality Standardization, Metrology and Conformity Assessment) policies and incorporate the core principles of the WTO Agreement on Technical Barriers to Trade (TBT).

Definitions of standards and technical regulations in these acts were brought into full compliance with respective definitions in Annex I to the TBT Agreement; i.e. a principally important division has been made between voluntary standards and mandatory technical regulations. The Law on Conformity Assessment regulates the activities for voluntary and compulsory conformity assessment. The non-discrimination principle as it concerns the treatment of domestic and foreign products and services, as well as the principle of equivalency of the other countries regulations are covered by Decree No. 9. The objective of these acts, and of Decree No. 239 (of May 2000, defining the products subject to mandatory certification) is to eliminate unjustified barriers to trade by streamlining the mandatory certification procedures and minimizing the relevant requirements. Mandatory certification activities are coordinated by SARM and conducted by the accredited certification bodies and testing laboratories. Certificates are issued for product types based on testing of samples, analysis of production system, quality system certification or declaration of supplier depending on the scheme of certification.

For the preparation, adoption and application of standards, SARM follows the TBT Code of Good Practice. SARM cooperates with standards organizations in other countries and is a member of the International Standard Organization (ISO), and the Euro-Asian Council for Standardization, Metrology and Certification (EASC),⁴⁵ which enables Armenia to participate through technical committees in

⁴⁴ Conformity assessment is a set of procedures, through which conformity assessment bodies (accreditation bodies, testing laboratories, certification bodies, etc.) determine whether a product or service conforms to the standards or technical regulations applied in a country. This can be done, for example, through issuing a certificate of conformity by relevant certification bodies or a producers' declaration.

⁴⁵ Members of EASC are Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan and Uzbekistan.

the elaboration of international and regional standards and to apply these standards in Armenia.

About 270 Armenian standards have been developed by the technical committees and adopted by SARM since 1993. The great part of the standards applied in Armenia are international and regional (GOST) standards.⁴⁶ More than 18,000 interstate standards of CIS countries are included in the national fund of standards. Armenia plans to align 50 per cent of its national standards to international standards by 2002.⁴⁷

Cooperation agreements on mutual recognition of conformity assessment have been signed with appropriate bodies of several countries such as Belarus, China, Georgia, Islamic Republic of Iran, Kyrgyzstan, Moldova, the Russian Federation, Turkmenistan, Kazakhstan, Moldova, Slovak Republic, Tajikistan, Kyrgyzstan, Ukraine, and Uzbekistan.

(v) *The system of intellectual property right protection*

The intellectual property right system of the former Soviet Union was reluctant to recognize the rights of individuals. Industrial property rights were expressed through the system of inventors' certificates, which had little to do with property rights. The copyright system, on the other hand, established strict political control in the field of creation, dissemination and protection of literary and artistic works in the interest of the "socialist community."

The establishment of the Armenian Patent Office in 1992 was the first step in the process of transforming Soviet heritage into a system that responds to the conditions and requirements of a market economy. Since 1992, it has been possible to file applications for patents in respect of inventions, and as from 1993, to register utility models and industrial designs. If an applicant is not a national of Armenia and is not domiciled in Armenia, he must conduct his affairs through a patent attorney registered with the Armenian Patent Office.

Policy formulation in the field of industrial property is the responsibility of the Patent Office of the Republic of Armenia, and in the field of copyrights – of the Armenian National Copyright Agency. The policy implementation in the area of industrial property (patents, utility models, industrial designs, trademarks and service marks, trade names, layout designs of integrated circuits and appellations of origin) is the responsibility of the Armenian Patent Office. The Patent Office is responsible for approving industrial property right applications, maintaining

⁴⁶ GOST refer to mandatory standards applied in the former Soviet Union.

⁴⁷ SARM.

the State Register of industrial property rights as well as for the regime covering trademarks. The Copyright Agency is responsible for registering copyrights, assisting individuals to secure copyrights, providing advisory services, and collecting and paying royalties due to authors and their successors in title.

All citizens enjoy equal rights under the laws and regulations in the area of intellectual property protection. The fees for legal protection of industrial intellectual property are identical for resident Armenians and non-residents. The civil court procedures are always available to deal with legal matters relating to intellectual property protection. The courts were empowered to order the payment of damages and court expenses. The other remedies envisioned in the TRIPs Agreement of the WTO are also within the decision-making authority of Armenian courts. Remedies against criminal behavior are available under Armenia's courts and penal system. Foreigners enjoy the same rights as Armenian nationals in this area. The Criminal Code of Armenia includes provisions providing for punishments in the cases of infringements and violations with respect to intellectual property rights.

Armenia is a member of the World Intellectual Property Organization (WIPO) since 1993. In 1994, Armenia also deposited a declaration of continued application of the Paris Convention for the Protection of Intellectual Property, Madrid Agreement Concerning the International Registration of Marks and the Patent Cooperation Treaty. The National Assembly of the Republic of Armenia ratified the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, and Bern Convention for the Protection of Literary and Artistic Works in 2000.

(vi) *Trade agreements*

Armenia maintains trade relations with more than 100 countries, and has developed a network of plurilateral and bilateral trade agreements with various countries, representing the Government's perception of the directions along which future trade relations should develop.

The Treaty of Economic Union, a framework agreement, was signed by nine Heads of State of the CIS in 1993 (Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, and Uzbekistan). The treaty envisaged that signatories will move to the eventual establishment of a customs union and common market among CIS countries, however, each signatory might exercise its own discretion on the pace and timing of integration into economic structures of the CIS.

Bilateral free trade agreements (FTAs) have been signed with Georgia, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan and Ukraine. The purpose of these agreements was to try to ensure that pre-existing trade links were not ruptured altogether in the disarray that followed the break-up of the Soviet Union. Most of these early agreements were negotiated annually; they envisaged free trade and included lists of products that the parties agreed to trade with one another. From 1995 the practice of product commitments was eliminated.

An important characteristic of trade with FSU countries during the immediate post-independence period was the existence of clearing arrangements among the trading partners through barter trade. Barter was borne of necessity and was deemed essential in order to preserve the only trade links that Armenia had at that time. Clearing arrangements involved 74 per cent of total exports and 56 per cent of total imports in 1993, and 46 per cent and 29 per cent respectively in 1994. However, the Government of Armenia recognized that its role as trader or as intermediary in trade inhibited the establishment of independent networks and contacts with foreign buyers by enterprises. As far as transport and payments problems were being settled, the importance of barter trade gradually decreased and by late 1995 deliveries under the clearing arrangements were abandoned.

These two practices mentioned above have been questioned by WTO Member States with respect to their compliance with the respective WTO requirements. However, as mentioned above, in 1995 the Government of Armenia eliminated the practices of product commitments as well as of clearing arrangements, ensuring the conformity of the FTAs with the provisions of Article XXIV of GATT 1994. It should be also mentioned that Armenia's obligations under the WTO would not conflict with its obligations under bilateral and regional trade agreements. This is very important as some of newly acceded countries (Kyrgyzstan) and countries in accession (Belarus, the Russian Federation) face problems being members of a customs union.⁴⁸

Armenia is also a member of the Black Sea Economic Cooperation (BSEC) Organization, along with ten other countries (Albania, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, the Russian Federation, Turkey and Ukraine). This agreement covers a number of fields, including economic cooperation and trade, investment, scientific and technical cooperation, the establishment of a BSEC Bank, and cooperation on transport and communications. The agreement did not make any provision for preferential trade.

⁴⁸ TACIS (2000) – It is known that Kyrgyzstan faced (and is still facing) problems related to its WTO obligations, on tariffs particularly, and obligations under Customs Union with Belarus, Kazakhstan and the Russian Federation.

The Partnership and Cooperation Agreement between the European Union and Armenia was on 22 April 1996, and entered into force on 1 July 1999. The Agreement did not provide for any trade preferences.

Trade and cooperation agreements have also been signed with many non-CIS countries, including Argentina, European Union, Austria, Bulgaria, Canada, China, Cyprus, Hungary, India, Islamic Republic of Iran, Lebanon, Lithuania, Poland, Romania, Syria, Switzerland, Slovenia the United States and Viet Nam. These agreements seek to strengthen economic links, but do not contain any provisions for preferential trade.

Armenia has also signed a series of other agreements on investment and on customs relations. Agreements on customs relations are intended to ensure cooperation and smooth working relations between the customs services of the signatories. Such agreements have been signed with Georgia, Islamic Republic of Iran, Tajikistan, Turkmenistan and Ukraine.

3. Accession to the WTO: an assessment of progress

(a) Armenia's WTO accession process

Armenia applied for observer status in GATT in 1992, and for GATT membership in November 1993. On the basis of that application a Working Party was formed on December 17, 1993, under the chairmanship of Mr. Don Kenyon – Ambassador of Australia to the WTO. Armenia has commenced the activities on accession to the GATT in early fall of 1994. Due to the transformation of the GATT to the WTO, Armenia's GATT Working Party was converted into WTO Working Party in 1995. Table 21 presents a timetable of Armenia's WTO accession process.

Armenia presented its Memorandum on Foreign Trade Policy to the WTO Secretariat in April 1995. The Memorandum presented a comprehensive description of Armenia's economic situation, implemented economic policy measures, and the legislative system in effect.

Within three months after the presentation of the Memorandum, approximately 350 questions from the WTO Member States were received requesting specific details of regulatory procedures for various industry branches. In September 1995, the written response to the mentioned requests as well as a revised Memorandum, compatible with the new WTO format, were submitted to the WTO Secretariat.

The first Working Party meeting on Armenia's WTO accession was held on 23 and 24 January 1996. During this meeting the Memorandum and Armenia's response to the questions of the Member States concerning the Memorandum were discussed. The Member States were satisfied with the work done by the Armenian party, and stressed the high quality of the Memorandum and responses to further questions on it. The well-prepared Memorandum as well as detailed responses to the Member States' questions played an important role in facilitating the subsequent stages of the accession process.

Hundred and thirty questions were presented by the WTO Member States within a month after the first Working Party meeting. Responses to them were submitted to the WTO Secretariat in April 1996. An additional 150 questions were tabled by the Member States after the second Working Party meeting, responses to which were presented to the WTO Secretariat in March 1997. The first Draft Report of the Working Party was presented in March 1997, and discussed during the third Working Party meeting in May 1997. In his concluding speech during the third Working Party meeting the chairman Mr. Don Kenyon highly appreciated the efforts of the Armenian party and advised the Parties to plan the next meeting of the Working Party as the final one.

However, starting from 1997 and thereafter frequent changes in the government and consequent changes of concerned officials, in fact, caused disruptions in the negotiation process itself as well as in domestic activities. This resulted in delays in the accession process, and have created additional difficulties. In some cases additional requirements were demanded by the members due to the delays.

So far, five Working Party meetings have been held in the context of Armenia's WTO accession (January 1996; September 1996; May 1997; December 1997 (informal); June 1999).

The first round of bilateral negotiations between Armenia and the Member States was held in late March 1996. So far 11 round of bilateral negotiations have been held. Armenia's main negotiating partners have been Australia, Bulgaria, Canada, Czech Republic, Cuba, the European Union, India, Japan, Mexico, Poland, Slovak Republic, Switzerland, Uruguay and the United States.

Armenia's Schedule of Specific Commitments on trade in services was submitted to the WTO Secretariat in June 1996, and the Supporting Tables on agricultural domestic support were submitted to the WTO Secretariat in March 1997.

It is worthwhile to point out some of the major issues raised by the WTO members which were clarified through subsequent questions and answers sessions.

Table 21. Timetable of Armenia's WTO accession processes

	Date	Time Since Memorandum	Time Since Application
Application	Nov. 93		
Working Party Established	Dec. 93		1 month
Memorandum	Apr. 95		17 months
1 st WP Meeting	Jan. 96	9 months	28 months
Draft WP report	Mar. 97	23 months	41 months
Report Adopted by the WP	–	–	–
Report Adopted by Council	–	–	–
Membership	–	–	–
Total Time			

Questions on customs matters related to bringing customs legislation and procedures in conformity with the relevant WTO disciplines (customs fees, customs valuation, application of taxes on imports, rules of origin). Particularly, the application of *ad valorem* customs fee was questioned by the WTO Member States, in particular its inconsistency with the provisions of Article VIII of the GATT 1994, i.e. that the applied customs fee shall not exceed the cost of customs proceedings of individual import or export transactions. The other principal issue was the imposition of VAT and excise tax on imports based on origin principle, which was inconsistent with the MFN principle. (the steps taken by Armenia to eliminate the mentioned inconsistencies are described in subsection 2 (c) (i).

Questions regarding *the import-export licensing regime* requested a clarification of the existing procedures, with the purpose of ensuring that they are conducted in a non-discriminatory manner and do not create unnecessary barriers to trade. This concerned, particularly, the licensing applied to imports of pharmaceutical products and phytprotection chemicals. Armenia presented a detailed description (which was then included in the Working Party Draft Report) of the existing procedures showing that WTO rules were complied with.

Issues in the field of *intellectual property* related to conformity of the legislation with the WTO TRIPs Agreement, and Armenia's intentions to join to international conventions on IPR. Special attention was paid to law enforcement matters (see details in subsection 2 (c) (v).

Regarding privatization and state-trading enterprises WTO members were concerned about the methods and ways of privatization, the management and operation of privatized enterprises, the sectors that were not subject to privatization,

and state trading enterprises. One of the main concerns of the Member States was that despite the fact that for some enterprises there had been a transfer of ownership from the state to ownership through share distribution, the boards of directors of those enterprises still remained state-appointed, which implied that actually no private entities own or operate those firms. Additionally, the members questioned whether those enterprises were granted special privileges and were de facto monopolists in their respective sectors.

The enterprises concerned were, particularly, “ArmProsperity” and “ArmAgroService” (where the state had 34 per cent share involved in provision of agricultural services; also firms involved in gas production and distribution, and provision of telecommunication services). Armenia clarified, in its responses, that there were no state trading enterprises in these sectors except in the telecommunication services sector, where there was a monopoly (see subsections 3 (b) (ii) and 3 (b) (iii).

Issues related to *technical barriers to trade* included elimination of mandatory standards, certification procedures in general, mandatory certification requirements and procedures, differentiation of standards and technical regulations, etc. One of the problematic issues was the application of mandatory standards (GOST standards) inherited from the Soviet system. In this regard the Member States required to ensure conformity with the TBT Agreement, which requires clear separation of voluntary standards and mandatory technical regulations. Another questionable point was related to mandatory certification of products and services to normative requirements. The Member States argued that the list of products subject to mandatory certification was too large, and that the inclusion of some products in the list was not justified under the criteria of the WTO TBT Agreement, i.e. they should be included on grounds of health, safety and environment. The steps taken by Armenia to eliminate these inconsistencies are described in subsection 2 (c) (iv) above.

Considering the fact that issues related to technical barriers to trade and to intellectual property right protection were of particular concern to WTO Member States, Armenia, in addition to responses to the Member States’ questions, elaborated and presented to the WTO Secretariat so called Checklists on TBT, SPS, and TRIPs matters, which included a comprehensive description of the existing legislation as well as regulations and procedures in the above-mentioned areas in July 1999. A final set of responses to the questions received from the United States of America was submitted to the WTO Secretariat in October 2000.

(b) *Current state of Armenia's WTO accession*

Armenia's accession process is in a well advanced stage. Bilateral market access negotiations on goods and services are finalized with all of the negotiating WTO members. Within the framework of multilateral negotiations the Government of Armenia has accomplished a set of legislative and institutional reforms to fulfill stringent requirements of WTO Agreements and requests of WTO members. The main stumbling block in the negotiations is the issue of agricultural domestic support, and in fact the completion of the accession process highly depends on the solution of this issue.

(i) *Multilateral negotiations*

Since the last Working Party meeting on Armenia's WTO accession, held in June 1999, the Government of Armenia has undertaken serious steps towards bringing its legislation into conformity with WTO requirements. A large package of legislative acts (table 22) was formulated and adopted in 1999-2000, covering areas like customs, technical standards and regulations, conformity assessment, and intellectual property aspects.

As a result of the extensive activities, most of Armenia's WTO related legislation has been brought into conformity with the WTO disciplines, which would allow to complete multilateral negotiations and prepare the final Report of the Working Party, provided that bilateral and plurilateral issues are settled.

(ii) *Bilateral negotiations*

As mentioned above, bilateral market access negotiations on trade in goods and services are finalized with all of the negotiating partners (Australia, Bulgaria, Canada, Czech Republic, the European Union, India, Japan, Mexico, Poland, Slovak Republic, Uruguay). During the last Working Party meeting held in June 1999, the United States of America also declared that Armenia's market access offer on goods and services was acceptable to the United States of America.

Trade in goods: In general Armenia's offer on market access for goods was quite liberal, with 15 per cent ceiling bound tariff rate. Tariff bindings are *ad valorem*, and there are no specific or compound rates. There are no tariff rate quotas on both industrial and agricultural products.

Table 22. List of legislative acts adopted by Armenia since the last WP meeting

Legislative Act	Date of Enactment
TBT, SPS	
1. Law on Conformity Assessment	03.12.1999
2. Law on Standardization	03.12.1999
3. Law on Veterinary Medicine	01.10.1999
4. Government Decree on Technical Regulation	11.01.2000
5. Law on Plant Protection and Plant Quarantine	15.10.1999
6. Law on Food Safety	15.10.1999
TRIPs	
7. Amendments to Law on Patents	16.12.1999
8. Amendments to Law on Copyrights and Neighboring Rights	20.01.2000
9. Amendments to Law on Trademarks, Service Marks and Appellations of Origin of the Goods	15.04.2000
10. Amendments to Law on Trade Names	07.01.2000
11. Amendments to Civil Procedure Code	10.12.2000
12. Amendments to Criminal Procedure Code	05.04.2000
13. Amendments to Civil Code	14.03.2000
14. Criminal Code (Special Part)	
15. Law on Selection Achievements	07.01.2000
16. Law on Protection of Economic Competition	15.12.2000
Customs matters	
17. Customs Code	01.01.2001
Government procurement	
18. Law on Government Procurement	22.08.2000

In its tariff offer Armenia, like many of the newly acceded countries,⁴⁹ expressed readiness to join in several so-called “zero-for-zero” and “harmonization” sectoral agreements negotiated among a number of governments in the Uruguay Round. Industrial items were bound individually, while a unified approach was used with respect to agricultural products by binding the tariffs on all agricultural products, except only few items, at a rate of 15 per cent.

Trade in services: Negotiations on trade in services are, in fact, finalized with all negotiating partners. Armenia, as most of the newly acceded countries, submitted to the WTO members a comprehensive market-opening offer in services. In general, countries which have acceded to the WTO (table 23) have undertaken commitments in a large number of sectors, unlike some original members of the WTO.

⁴⁹ Working Party Reports and Tariff Schedules of the acceded countries; and WTO (1999), (2000), “Technical Note on the Accession Process” (Note by the Secretariat).

Table 23. Sector-specific commitments in services of Armenia and newly acceded WTO members

	Armenia	Ecuador	Mongolia	Bulgaria	Panama	Kyrgyzstan	Latvia	Estonia	Jordan	Georgia	Croatia	Albania	Oman
Professional services	X	X	X	X	X	X	X	X	X	X	X	X	X
– Legal services	X	X	X	X	X	X	X	X	X	X	X	X	X
– Accountancy services	X	X	X	X	X	X	X	X	X	X	X	X	X
– Taxation services	X	X	X	X	X	X	X	X	X	X	X	X	X
– Architectural and engineering services	X	X	X	X	X	X	X	X	X	X	X	X	X
– Medical services	X	X	X	X	X	X	X	X	X	X	X	X	X
Computer and related services	X	X	X	X	X	X	X	X	X	X	X	X	X
Research and development services	X	X	X	X	X	X	X	X	X	X	X	X	X
Other business services	X	X	X	X	X	X	X	X	X	X	X	X	X
Postal services	X	X	X	X	X	X	X	X	X	X	X	X	X
Courier services	X	X	X	X	X	X	X	X	X	X	X	X	X
Telecommunications – valued added	X	X	X	X	X	X	X	X	X	X	X	X	X
Telecommunications – basic	X	X	X	X	X	X	X	X	X	X	X	X	X
Audiovisual services	X	X	X	X	X	X	X	X	X	X	X	X	X
Construction services	X	X	X	X	X	X	X	X	X	X	X	X	X
Distribution services	X	X	X	X	X	X	X	X	X	X	X	X	X
Educational services	X	X	X	X	X	X	X	X	X	X	X	X	X
Environmental services	X	X	X	X	X	X	X	X	X	X	X	X	X
Financial – insurance	X	X	X	X	X	X	X	X	X	X	X	X	X
Financial – banking and other financial services	X	X	X	X	X	X	X	X	X	X	X	X	X
Health services	X	X	X	X	X	X	X	X	X	X	X	X	X
Social services	X	X	X	X	X	X	X	X	X	X	X	X	X
Tourism services	X	X	X	X	X	X	X	X	X	X	X	X	X
Recreational services	X	X	X	X	X	X	X	X	X	X	X	X	X
Transport services	X	X	X	X	X	X	X	X	X	X	X	X	X
– Maritime transport	X	X	X	X	X	X	X	X	X	X	X	X	X
– Air transport	X	X	X	X	X	X	X	X	X	X	X	X	X
– Rail transport	X	X	X	X	X	X	X	X	X	X	X	X	X
– Road transport	X	X	X	X	X	X	X	X	X	X	X	X	X
Limitations on National Treatment	X	X	X	X	X	X	X	X	X	X	X	X	X

Source: WTO Documents.

Intense negotiations were carried out with respect to the telecommunication services sector and the financial services sector. The telecommunication services sector was the major problematic issue. The Member States insisted on further market access liberalization in the sector of telecommunication services, where Armenia faced a monopoly problem.⁵⁰ The Government of Armenia has undertaken significant steps to regulate the activities of the exclusive supplier as well as to curtail the duration of exclusive rights on provision of some types of telecommunications services. However, the Government was unable to assume any additional commitments beyond those already reflected in its present offer as this would lead to a breach of its contractual obligations.

(iii) *Agricultural domestic support*

The topic of agricultural domestic support still remains one of the main stumbling blocks in the negotiation process of Armenia's WTO accession, and no common agreement has been reached on it yet. A resolution of this issue is crucial for the completion of Armenia's WTO accession process. The main players in plurilateral negotiations on the agricultural issue remain Australia, Canada, the European Union and the United States. Here, the main issues are the following:

- (a) The *de minimis* level of domestic support. Armenia claimed to avail itself of the 10 per cent *de minimis* provision pursuant to Article 6.4(b) of the Agreement on Agriculture instead of 5 per cent (an advantage provided for developing countries).
- (b) The allowed level of Aggregate Measure of Support (AMS), and the calculation method used for determining the level of AMS. Armenia included tax privileges granted to agricultural producers in the calculation of AMS.⁵¹ The Member States requested to remove tax exemptions from calculation of AMS. However, according to the Agreement on Agriculture as well as Subsidies Agreement "tax exemptions" are considered as a subsidy measure (i.e. Armenia's position is quite legitimate in the WTO framework). Accepting the members' request would leave Armenia with only 5 per cent *de*

⁵⁰ See a more detailed description of the situation in subsection 3 (c).

⁵¹ Due to scarcity of budgetary resources the Government of Armenia has adopted the policy of granting tax privileges to agricultural producers (on product specific as well as non-product specific basis) as one of the main measures of support to farmers. Tax privileges constitute the major portion of support provided to farmers. Two other types of support besides tax privileges were investment and input subsidies provided through low interest loans, water price subsidies, and so called "seed loans" (falling under the "amber box" measures according to the Agreement on Agriculture).

minimis (for amber box type of measures), which would significantly limit the room for maneuvers in applying support measures in the future.

- (c) Issues related to the tax regime applied in Armenia with respect to agricultural products. Changing the current tax regime applied in agriculture could have acute negative consequences for Armenia both from economic and political points of view.
- (d) Obtaining privileges provided for in the Article 6.2 of the Agreement on Agriculture.
- (e) Obtaining transition period for implementing some of the commitments agreed upon with the Member States.

Member States' positions on agricultural issues are rather tough, while Armenia, in order to meet the stringent requirements of the WTO Member States, has shown considerable flexibility. One of the main arguments used by the members is the permission to use "green box" measure provided for by the Agreement on Agriculture. However, stringent budgetary limitations and underdeveloped institutions in economies in transition make it, in fact, often very difficult, if not impossible, to implement "green box" measures. Since the reform process towards a market economy, Armenia, like other economies in transition, has witnessed a dramatic decrease in agricultural production (table 24). As this experience has demonstrated, there is a need for "amber box" measures in order to increase the level of agricultural production.

**Table 24. Gross agricultural production in Armenia
(in million US dollars)***

1995	1996	1997	1998	1999
821.3	829.3	725.3	796.5	752

Source: Ministry of agriculture; State Statistical Agency.

Note: This trend of agricultural production level also reflects the seriousness of the problem of low productivity, in particular in light of the fact that the land area cultivated for crop production has increased considerably (in 1998 the land used for grain production increased by about 44 per cent, potatoes – by 46 per cent, vegetables by about 8 per cent, compared to 1990). Productivity level remains very low because of poor technology of production, insufficient financial resources to afford the means of production, depreciation and inadequate use of machinery, use of fertilizers at much less than the optimum level, difficulties in realization of agricultural products, etc.

Apparently, Armenia would need to obtain an adequate level of AMS as well as a reasonable transition period for implementing its WTO commitments. Otherwise, undertaking heavy commitments may create economic and social problems that would be difficult to overcome in the future.

(c) *Main difficulties faced during the accession process*

(i) *General*

The Main difficulties and challenges faced during the WTO accession process, some of which are common among acceding countries, can be divided into three groups: a) technical; b) policy related; and c) organizational.

In order to facilitate the WTO accession activities, an Interministerial Committee on GATT (WTO) Matters was established in 1994, in order to coordinate WTO accession activities. However, the committee failed to be an effective structure, and it did not function in practice.⁵²

Later, the WTO Department was formed under the Ministry of Economy of Armenia in 1996. Maintaining such a Department was essential for a continuous and proper conduct of accession activities, especially for Armenia where structural changes, in fact, happened frequently. During the course of negotiations the highly qualified core team of the Department helped considerably to overcome the difficulties.⁵³

Financial and technical assistance provided by international organizations was essential for overcoming the problems mentioned below. During the beginning of the accession process, the USAID financed project implemented by IRIS-Caucasus assisted the Government of Armenia⁵⁴, and, later, a TACIS financed project "Technical Assistance to Armenia for WTO Accession and PCA Implementation"⁵⁵ started its operations since summer of 1998. These projects provided considerable support, expertise and knowledge to the Government in

⁵² The main reasons for the failure of the intergovernmental committee to function effectively were the frequent changes in government and government officials who were members of the committee and obstacles in effective coordination among concerned government agencies and bodies represented in the committee.

⁵³ In 1997 the Department was moved to the Ministry of Industry and Trade due the dissolution of the Ministry of Economy. Presently, the Ministry of Industry and Trade of Armenia is the responsible government body for coordinating and conducting WTO accession activities.

⁵⁴ The project was implemented by the Center of Institutional Reform and the Informal Sector (IRIS) of the University of Maryland. The project implemented in Armenia was the establishment of the Center for Economic Policy Research and Analysis (CEPRA).

⁵⁵ PCA stands for Partnership and Cooperation Agreement between Armenia and the European Union.

preparing the necessary documents and formulating legislative acts, as well as in preparing and conducting negotiations, training concerned government officials, and financial assistance for visits of Armenian delegations to Geneva.

(ii) *Technical issues*

Two major problems of a technical nature can be identified:

- (a) Preparation of information on the country's legislative and regulatory system. This is a common challenge among acceding countries. Preparation of the Memorandum, and of other documents and responses to the questions of members required considerable investment of time and resources. Problems regarding the collection of relevant data were conditioned by ongoing changes in the official data collection system as well as structural changes within the Government.
- (b) Submission of complete copies of relevant laws and regulations to the Working Party. In this respect there were two main tasks to be dealt with. First, the translation of legislative acts, that were sometimes rather voluminous, proved to be not an easy task. Second, the frequent changes in the legislation, due to the reform process in the country, created problems related to timely submission as well as to repetitive translations of the laws and regulations.

(iii) *Policy related issues*

Another set of difficulties encountered during the negotiations was related to policies implemented by the Government of Armenia, and to the existing specific situation in some sectors of the economy.

- (a) The fact that Armenia applied a liberal tariff regime with 0 and 10 per cent tariff rates made it difficult to negotiate higher bound rates. Thus, the Government had to stand firm against requests from protectionists for increasing tariffs on products in their interest. Understandably, in some cases domestic protectionists and producers themselves were unhappy about the commitments undertaken by the Government. Their proposals to increase applied tariff rates on certain products, particularly on those on which concessions were already agreed upon with the negotiating partners, created difficulties for

negotiators.⁵⁶ Increasing tariff rates on some products, of course, meant renegotiations of the terms of market access commitments, and caused delays in negotiations. Here, the Government's determination and commitment to the WTO accession have withstood protectionist pressures in most cases.

- (b) As mentioned earlier, the monopoly problem in the telecommunication services sector hindered the negotiations significantly. The Armenian provider of the telecommunication services was privatized through an international competitive tender. Provision of monopoly rights (for a long period) was a condition of the privatization deal which enabled Armenia to attract major foreign investment to the sector in order to modernize and bring it to the level of internationally accepted standards. Attracting investment for the development of the sector was of great importance to Armenia. The Government was under the pressure of the requests of the members to curtail the monopoly period on one hand, and was constrained by its contractual obligations on the other hand. Here the negotiations were completed after Armenia had clearly demonstrated to the WTO members its willingness and readiness to further liberalize its market,⁵⁷ and convinced them that Armenia really can not take commitments beyond its contractual obligations.
- (c) The issue of agricultural domestic support within the context of WTO accession, which has yet be solved, is very critical for Armenia. Armenia has initiated one of the most comprehensive agricultural reform programmes in the FSU countries in 1991, and most of the agricultural arable land had been privatized by 1994. The state order system has been fully dismantled, the producer prices as well as input prices have been liberalized, and almost all producer and consumer subsidies applied during the Soviet period have been eliminated.⁵⁸ The process of agricultural reform has been endangered by the

⁵⁶ In transition countries newly emerging industries or those under reconstruction may really need government assistance or protection during the start up period. For a government that can not provide direct financial assistance due to scarcity of budgetary resources and underdeveloped infrastructures it is very difficult to withstand requests for tariff rate increases. Johnson (1987), pp. 134-136; 197-217; [5] pp. 235-265).

⁵⁷ In this context negotiations started between EBRD and the Greek OTE Company (presently the owner of 90 per cent of Armentel, the local telecommunications provider) on the acquisition of part of the stock by EBRD, where the reduction of the monopoly right for providing the mobile telecommunication services was a prerequisite condition for the purchase.

⁵⁸ World Bank (1995), "Armenia – the Challenge of Reform in the Agricultural Sector" (Country Study).

difficulties inherent to transitional economies such as the disrupted and improper infrastructure for private farming, and delays in restructuring and privatizing agricultural industries. In fact, the newly established class of private farmers has been fully exposed to the market forces, and the low level of state support to farmers, due to scarcity of budgetary resources, has been far from being sufficient for providing an adequate basis for sustainable growth of agricultural production. The recovery and the development of the agricultural sector are of strategic importance for Armenia, both from an economic and a political point of view. It is very important for the Government of Armenia to have sufficient flexibility in implementing support measures in the agricultural sector in future, while being in conformity with its WTO commitments.

Recent developments within the context of the WTO can be considered as a signal that the agricultural issue is one of the most problematic issues, and that the WTO disciplines do not adequately meet or address the difficulties faced by transition economies.⁵⁹ Several original and newly acceded transition economy members of the WTO⁶⁰ tabled to the WTO Committee on Agriculture two negotiation proposals addressing both market access and the domestic support topics.⁶¹ Countries pointed out the difficulties inherent in transitional economies, based on which they asked for special treatment of economies in transition that would provide more flexibility with regard to market access and domestic support in the agricultural sector.

It is interesting to note that even those countries (such as Bulgaria, Hungary, Czech Republic, Slovak Republic, etc.) that obtained AMS and the right to use tariff quotas and export subsidies still face serious problems and thus ask for more flexibility concerning domestic support (table 5). Meanwhile, most of the newly acceded FSU countries (such as Estonia, Georgia, Kyrgyzstan and Latvia) have found themselves in much more unfavourable conditions (they have been allowed only 5 per cent *de minimis* level of support; see table 5) and are now facing the reality of their far-reaching commitments under the WTO.⁶²

⁵⁹ FAO (1999), "Preparing for the Forthcoming Round of Multilateral Trade Negotiations on Agriculture".

⁶⁰ Among which are Hungary, Bulgaria, Czech and Slovak Republics, Slovenia, Mongolia, Albania, Latvia, Estonia, Georgia, Croatia, Kyrgyzstan.

⁶¹ WTO documents G/AG/NG/W56 and G/AG/NG/W57.

⁶² It should be mentioned that renegotiating the WTO commitments that have already been accepted is a very difficult task, and in WTO practice hardly possible. The case of Hungary is an illustrative example of how difficult the renegotiation of already accepted commitments under the WTO is.

However, the last two acceding transition countries, Lithuania (FSU country) and Croatia, have succeeded in their negotiations on agriculture in within the context of their accession to the WTO in obtaining AMS (i.e. the right to provide support to the agricultural sector above the *de minimis* level), as well as the right to use tariff quotas on some items of agricultural produce (table 25).

- (d) Adapting the legislative and institutional framework in the context of WTO accession is one of the major challenges faced by acceding countries, especially by countries that are in transition. In Armenia, as in other FSU countries, the legislative and institutional framework had been designed to meet the needs of a centrally planned economy. WTO requirements related to legislation touch numerous fields and in many cases imply substantial changes in the existing regulatory and policy framework. A broad range of changes were necessitated in particular in the areas of customs, standards and conformity assessment, and intellectual property rights protection. Practically most of the newly acceded countries undertook commitments to *apply* the provisions of the WTO TRIPs, TBT and SPS Agreements.⁶³ This was conditioned by the general approach towards acceding countries.

However, underestimation of the possible effects and negative implications of these concessions may create additional tension in the reform process. Recognizing this, Armenia negotiated for transition periods necessary for the adoption and implementation of relevant legislative acts at the beginning of the accession process. However, due to the delays in the accession process the requests of the Members States related to legislation became more demanding and Armenia was required to apply all necessary legislation upon its WTO accession. This required strong determination and enormous efforts from the Government to make the necessary changes in the legislation under heavy time pressure.

It is worthwhile mentioning that the adoption of the laws is only the beginning of the story, as WTO provisions and the relevant commitments undertaken by acceding countries imply also a proper implementation and enforcement of the laws. Institutional changes, educating and maintaining relevant officials necessary for effective implementation of the laws adopted in the context of the WTO present major challenge to countries in transition. In particular, the scarcity of financial resources and qualified human resources may cause disruptions and delays in the implementation process.

⁶³ The mentioned commitments are included in the Working Party Reports of the newly acceded countries (countries that became WTO members after the WTO came into force in 1995).

Table 25. Summary of the WTO commitments in agriculture of countries with economies in transition and Turkey

	Bulgaria	Czech Republic	Estonia	Hungary	Georgia	Kyrgyzstan	Latvia**	Poland	Romania	Slovak Republic	Slovenia	Lithuania	Croatia	Turkey
Tariff	Cereals, meat, dairy, sugar, tobacco, processed food	Oilseeds, potatoes, beef, pork, poultry	No TRQ	Beef, pork, sheep, poultry	No TRQ	No TRQ	Cereals, raw cane sugar	Cereals, sugar, vegetables, potatoes, poultry, butter, vegetable oil	Meat, powder, milk, cheese	Oilseeds, potatoes, beef, pork, poultry	Cereals	Yes, N/A.	Yes, N/A.	No TRQ
Quotas														
AMS Initial	ECU 630 million	CZK 17 billion	No AMS	HUF 40.8 billion	No AMS	No AMS	No AMS	US\$ 4 billion	No AMS	SKK 12.3 billion	ECU 159 million	US\$ 113 million	EURO 161 million	No AMS
AMS Final	ECU 520 million	CZK 13.6 billion	AMS bellow <i>de minimis</i> 5 per cent. Developed country provision	HUF 30.8 billion	AMS bellow <i>de minimis</i> 5 per cent	AMS bellow <i>de minimis</i> 5 per cent	AMS bellow <i>de minimis</i> 5 per cent	US\$ 3.3 billion	<i>De minimis</i> : allowed 10 per cent of agricultural output	SKK 10.1 billion	ECU 131 million	US\$ 94 million	EURO 134 million	<i>De minimis</i> : allowed 10 per cent of agricultural output. Developing country provision
Export Subsidies Initial	ECU 280 million	CZK 6.4 billion	No commitments	HUF 21 billion	None	None	1998: Lats 0.8 million	US\$ 638 million	Lei 2.8 billion	SKK 2.4 billion	None	N/A.	N/A.	
Export Subsidies Final	ECU 190 million	CZK 4.3 billion		HUF 14.3 billion		2001: Lats 0.6 million		US\$ 432 million	Lei 2.2 billion	SKK 1.6 billion				US\$ 95 million

Sources: FAO working papers and WTO Documentation.

Particularly, despite the considerable achievements in legislative reform in the areas of standardization and conformity assessment there are still a number of important legislative and institutional issues to be addressed in order to ensure proper implementation of the principles of the WTO TBT and SPS agreements. As mentioned earlier, the SARM, which is a state agency, is responsible for both functions, which are public sector functions, as well as additional functions which are basically private sector operations. For example, voluntary standardization activities are private sector responsibilities and need to be separated from SARM. Additionally, there appears conflict of interest within SARM when some bodies within SARM control or assess conformity assessment procedures and others provide services in testing and certification (for example, accreditation activities and conformity assessment activities). This in its turn leads to inefficient administration. *Thus, separation of public and private functions and bodies alongside with the separation of rule making from enforcement as well as of any activities from their assessment and control are crucial issues to be addressed yet.*

There are still number of important issues to be resolved in the of area intellectual property as well. The establishment and development of relevant non-governmental associations, such as collecting societies,⁶⁴ is a significant precondition for due enforcement of the legislation on copyright and neighbouring rights. There is still a need for adopting some complementary legislative acts to ensure the enforcement of IPR protection measures (This concerns the Criminal Code, in particular).

(iv) *Organizational issues*

- (a) Armenia's WTO accession process had a successful beginning, and was well advanced in 1997. However, starting from 1997 and thereafter frequent changes in the government and consequent changes of officials caused disruptions in the negotiation process. This resulted in delays in the accession process, and have created additional difficulties, despite the fact that in Armenia the problem was somehow alleviated by the existence of the WTO Department with its qualified staff.
- (b) The comprehensive scope and coverage of the WTO Agreements make accession activities very extensive and require in-depth knowledge. Educating and maintaining qualified officials dealing with WTO accession activities is of utmost importance. The WTO

⁶⁴ Collecting societies: usually private organizations which assist copyright holders in protecting their rights through agreements with them. Their services include also collecting respective fees from the users of works of copyright holders.

and other international organizations provide substantial assistance in this respect: regional seminars, special Geneva-based WTO courses for acceding countries organized by the WTO Secretariat, technical assistance in preparing required documentation, etc. Here, two things are important, first to ensure that the right people receive the training as well as to retain the trained people.

(d) Main implications of Armenia's WTO membership

While discussing some of the main implications of Armenia's WTO membership, first of all, it should be mentioned that WTO membership would not imply any major changes in Armenia's current foreign trade policy.

Armenia's foreign trade regime is already quite liberal and as a result there will probably be no substantial shifts in trade flows or increases in foreign competition. However, in the long-run Armenia would be constrained in applying its tariff policy, and increasing tariffs above the bound rates (that are relatively low) in the future would be, practically, hardly possible. Regarding exports, in the short-run one should not expect any significant increase in exports. But, predictability and clarity provided by WTO rules, i.e. binding tariffs, application of MFN and national treatment principles by all the members would benefit Armenia's businesses and exporters in the long run.

It is important to note that the WTO system can be of great help to Armenia's Government in withstanding protectionist pressures and conducting balanced economic policies. In this respect, The Government can use the WTO commitments covering almost all sectors of the economy as a serious external reference in its arguments with powerful groups with narrow interests.

In the short-run, there will be considerable costs associated with required legislative and institutional reforms, which, in the long run, may turn to benefits if the country wishes to have an effective government. The WTO disciplines can enhance the development of appropriate market institutions and improvement of the Government. Complying with disciplines, such as those ensuring transparency, the well-organized processing and flow of information, the use of clear criteria on trade-related regulations, and enforcement of WTO compliant laws, are effective instruments for reducing inefficient management and abuse of power.

One of the main constraints that WTO membership may create in the long-run relates to state support of domestic industries, especially in the agricultural sector. This issue requires special consideration. Strict disciplines of the WTO with respect to subsidization may cause serious difficulties in countries like Armenia, where appropriate institutions necessary for the implementation of WTO-compliant

measures are underdeveloped (this, particularly, concerns the agricultural sector as discussed in this paper).

Being a member of WTO would mean that internationally accepted rules are applied in Armenia. This would contribute to the creation of Armenia as a trustworthy and predictable trading partner, which is also a key determinant for attracting foreign investment.

Implementation of WTO-compliant laws and regulations in the countries of the region can contribute to the development of economic co-operation with neighbouring countries. Georgia and Turkey are already members of the WTO, and Azerbaijan is in the accession process. WTO membership would enhance the process of legislative and regulatory harmonization. Armenia may also use its WTO commitments as a reference for the country's participation in various regional integration initiatives in the region. The WTO dispute settlement mechanism as well as active participation in the multilateral trade negotiations within the WTO framework would provide Armenia with opportunities for defending its economic interests.

Finally, WTO membership for Armenia has also an important emotional significance, as it is an additional sign of its independence and sovereignty.

4. Conclusions and recommendations

Armenia's WTO accession process started in 1993, and currently is in a well advanced stage. The Government of Armenia is strongly committed to joining the world trading system. Armenia submitted comprehensive market-opening offers on trade in goods and services, and bilateral negotiations are completed with all members. Since the beginning of the WTO accession process Armenia implemented comprehensive legislative and institutional reforms in order to fulfil stringent requirements of the WTO and its members.

The solution of policy-related problems mentioned in the previous sections as well as the undertaking of voluminous legislative work required a big deal of time and efforts. The difficulties have been exacerbated by frequent changes in the government, which caused delays in Armenia's accession process.

WTO accession is a very complex process involving wide-ranging informative, legislative and executive action by acceding governments, and may take quite a long time. The first and the most important precondition for a successful conduct of the accession process is the willingness and the commitment of the acceding country's government. Only a strong commitment may create a sound basis for ensuring policies and reforms conducted by the government

coherent with WTO rules and requirements. Policy coherence matters are of particular importance in transition countries, where widespread legislative and institutional reforms are still in process.

Bringing the legislation in compliance with WTO rules is one of the most challenging tasks that acceding governments must achieve. It touches numerous areas and sectors of the economy. Considerable technical assistance is provided by the WTO members as well as international organizations to undertake the legislative work. A large number of laws has been adopted in Armenia as a result of its WTO accession. However, most of the difficulties in the legislative area relate to the implementation and enforcement of adopted laws and regulations. Law implementation implies institutional changes, and hence require adequate financial as well as human resources. As the experience of the last ten years in Southeastern Europe and CIS countries has shown, they still continue to lag well behind in terms of law implementation and enforcement, and relevant institutional performance. Accelerating the slow pace of institutional change in the less advanced transition economies is perhaps the most pressing challenge in the second decade of transition.⁶⁵ Consequently, governments should pay due consideration to law enforcement and institutional issues, and should allocate limited budgetary resources efficiently. In this context, technical assistance from international organizations and donor countries can be of great importance.

It would be appropriate to separate issues that are general to all areas and those that are sector-specific. General issues to be addressed include, particularly:

- (a) training of relevant government officials;
- (b) improving transparency of law enforcement procedures, which is a key element for ensuring the rule of law and interpretation of laws in the same way by private entities and state officials (preparation, publication and dissemination of guides on relevant regulations and procedures, organization of seminars and gatherings would be of great importance);
- (c) improving information flows among relevant state agencies and coordination of activities of both public and private agencies, as well as the creation of a data base.

The followings are some important sector-specific recommendations. In the area of TBT and SPS:

⁶⁵ OECD, (2000), "Transition Report 2000: Economic Transition in Central and Eastern Europe, the Baltic States and the CIS", p. 13; p. 25.

- (a) separating public and private tasks and bodies and of rule making from enforcement;
- (b) adoption of international standards (SARM has planned to replace Goststandards by mandatory regulations and voluntary standards;
- (c) formulating technical regulations by relevant government bodies;
- (d) streamlining the coordination of activities of the SARM with relevant state and private sector bodies.

In the area of intellectual property, the establishment and development of relevant non-government associations (which are currently underdeveloped in the country), such as collecting societies would highly support the protection of copyrights in the country.

Issues to be addressed in the agricultural sector relate to designing policy measures that can be implemented to ensure compliance with WTO commitments as well as determining priority needs in terms of institutional development to allow the utilization of “green box” measures as stipulated in the Agreement on Agriculture.

WTO accession is a negotiation process. Ensuring administrative continuity and consistency in the negotiation process is very important for effectuating the activities of both the acceding country and the WTO members. In this respect having and maintaining a stable and appropriately qualified team is essential. This allows keeping continuous follow-up contacts with negotiators of other countries, who play an important in the negotiation process.

Currently, the completion of Armenia’s accession, to a large extent, depends on the successful solution of the agricultural domestic support issue. Accepting the requests of the WTO members may significantly limit the Government in conducting its agricultural policies. Taking into account the existing situation in Armenia’s agricultural sector, Armenia would need to negotiate for obtaining an adequate level of AMS as well as a transition period for implementing its WTO commitments under the Agreement on Agriculture.

Some of the acceded governments (Georgia, Kyrgyzstan, etc.) preferred prompt membership to the WTO by fulfilling the strict requirements of the WTO members. The recent joint declaration of WTO members in transition with respect to agriculture shows that they have found themselves with heavy commitments that may undermine the expected gains from WTO membership.

Compliance with WTO rules is of utmost importance for retaining and strengthening the multilateral trading system. WTO membership would encourage the reform process in acceding countries. Multilateral commitments are important for sustaining the liberalization of trade, providing transparency and predictability of the trade and payment regimes as well as to the development of institutions that support markets and private enterprise.⁶⁶

However, acceding governments, as well as members of the WTO need to pay more attention to the specific difficulties faced by acceding (particularly, transition) countries, and should try to find ways for balancing the stringent obligations assumed by acceding countries with the benefits that they may gain by joining the WTO. In this respect, joint action by acceding countries and coordination of their activities within the WTO framework may create a sound basis for pursuing their interests during accession as well as during the future round of multilateral trade negotiations within the framework of the WTO.

The bottom line here is that WTO membership creates wide range of opportunities for trade and development, but this does not mean that all benefits are automatically granted to countries like Armenia. The WTO system can help but not guarantee. It depends on how our governments would be able to utilize the opportunities created by WTO membership as best as possible.

⁶⁶ *ibid*, p. 22.

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B. Azerbaijan⁶⁷

1. Introduction

The economy of Azerbaijan – the biggest of the Transcaucasian countries, is heavily dependent on the country's natural resources wealth, in particular oil, gas, and related products. However, in the long term it will need to find a balance between the oil and non-oil sector, including in particular agriculture and food processing, downstream oil refining and engineering services. This shift from oil and gas will require structural reform which is already ongoing to some extent.

Azerbaijan is not only a traditional oil producer but, under the former Soviet Union, was a prime location for the production of oil field equipment and supplies. With an estimated foreign investment of US\$ 40 billion to take place in the oil and gas sectors over the years ahead this capacity has the potential to be revived and expanded.

After retrieving its independence in the early 1990s, Azerbaijan has steadily expanded its relationships with international organizations which have unique experiences with integration such as the European Union. Azerbaijan has moved slowly from relying on trade with former Soviet Union countries towards increasing trade with other countries, including the European Union.

On the basis of its increasing international trade, Azerbaijan has been eager to join the World Trading Organization (WTO). However, the accession of a new country to the WTO is not a simple process. In general terms, due to prevailing procedures and time-consuming queries from existing WTO Member Countries, the accession proceedings, including negotiations and efforts to bring the national trade legislation in conformity with the WTO rules and disciplines may last for months, even years. The accession procedures require submission of accurate and comprehensive information from aspiring member countries while both the public and private sector of such countries require a long time to familiarize themselves with the structure and the functions of WTO, as well as the rights and obligations of the members.

This paper seeks to demonstrate the experiences of Azerbaijan with its process of accession to the WTO, with particular focus on the problems and obstacles encountered and recommendations to overcome these obstacles. The

⁶⁷ Based on a paper prepared by Mr. Rashad Firudin Oglu Aliyev, Division for WTO and Other International Organization Co-operation, Ministry of Commerce, Azerbaijan.

paper was prepared for the Subregional Workshop on Accession to WTO-Economies in Transition, which was organized by the United Nations Economic and Social Commission for Asia and the Pacific (UN/ESCAP) in cooperation with the Government of Uzbekistan, in Tashkent from 25 to 27 July 2001.

Section 2 of the paper will review past and present trade policies and structures while section 3 will focus on an in-depth analysis of the accession process so far. Section 4 will summarize the main conclusions and offer some recommendations to make the process more efficient.

2. Review of past and present trade policies

(a) Institutional framework

In accordance with the Constitution, the President of Azerbaijan embodies the executive power and implements the legislative decisions made by the Milli Mejlis (National Parliament). The Milli Mejlis of the Azerbaijan enacts constitutional laws, and other laws and regulations as specified by its terms of reference. In accordance with Article 125 of the Constitution of Azerbaijan, only the courts implement legal procedures and justice (the Law on Courts and Judges was adopted on 10 June 1997).

The following government entities are responsible for making and implementing policies affecting foreign trade:

- The Milli Mejlis;
- The President;
- The Cabinet of Ministers;
- The Ministry of Commerce;
- The Ministry of Economy;
- The Ministry of Finance;
- The National Bank;
- The State Customs Committee;
- The State Committee on Antimonopoly Policy and Support for Entrepreneurship;
- The Ministry of Taxes.

The implementation of the trade policy regulation regime has undergone major changes since the collapse of central planning.

The Ministry of Commerce is a central body of executive power which implements internal and foreign trade state policies and manages relations with international trade organizations. The Ministry of Commerce coordinates the activity of other central executive bodies in the field of internal and foreign trade in compliance with the existing legislation.

The main responsibilities of the Ministry of Commerce are determined by the Constitution, Laws of Azerbaijan, international agreements, Orders and Decrees of the President and the Cabinet of Ministers of Azerbaijan and Presidential Decree No. 626 of Azerbaijan on Regulations within the Ministry of Commerce of Azerbaijan adopted on 26 July 1997.

The Cabinet of Ministers of Azerbaijan sets tariffs with recommendations of other government agencies.

Heads of local executive authorities carry out the executive power in regions (districts and cities). The President of Azerbaijan appoints and dismisses heads of local executive authorities.

In accordance with the Constitution the municipalities implement self-government. The municipalities are instituted by elections. The Law determines rules of election for municipalities and status of municipalities.

The regulatory regime has been under constant change since 1994. Its major objectives are, on the one hand, removing the legacy of Soviet laws from the legislative framework, and on the other hand, establishment of the legal and regulatory base of democracy.

Due to the complexities involved, the process of change is still ongoing. Along with issues of enforcement, legislation such as on Police, Criminal Code, on Advocacy, on Notary and other legal draft currently under consideration, determine the implementation of democratic measures (election of local bodies and identification of their status).

Judicial power in Azerbaijan is vested in the Constitutional Court of Azerbaijan, Supreme Court of Azerbaijan, Economic Court of Azerbaijan, and general or specialized law courts of Azerbaijan. Judges are independent; they are subordinate only to the Constitution and Laws of Azerbaijan, and they cannot be replaced during the term of their authority.

The highest law court for the settlement of economic disputes is the Economic Court of Azerbaijan. It carries out control over activity of respective specialized law courts in ways determined by the Law. Judges of these courts are appointed by the Milli Mejlis upon the recommendation of the President.

(b) Trade policies

The current foreign trade policy has evolved from direct state micro-management support of foreign trade to a market-support policy.

Reforms already implemented and envisaged include those seeking to enhance competition in domestic markets and promote export-oriented production through the removal of discriminatory provisions for foreign investors and producers of imported products.

While the fundamental infrastructure for trade policy is in place, the development and enforcement of WTO-consistent policies in all areas covered by the Uruguay Round Agreements are yet to be completed. The Government is fervently striving to remove existing inconsistencies.

The foreign trade regime has been dramatically liberalized, especially over the last few years. Export controls were scrapped in 1996, as were export tariffs and the compulsory requirement to surrender a portion of hard currency earnings at below market exchange rates. Many procedures related to foreign trade operations were simplified. Last but not least, a new streamlined tariff structure based essentially on two rates was introduced in 1997.

Decree No. 160 of the President of Azerbaijan on the supplementary measures concerning trade regulation issued on 23 July 1999 plays an important role in the formulation of commercial policy in Azerbaijan. This decree approved the State Programme on trade development for 1999-2002 in Azerbaijan.

One of the primary goals of this Programme is the acceleration of the WTO accession process of Azerbaijan. For this purpose the National Working Group was established by Decree No. 226 of the Cabinet of Ministers (Information on the National Working Group is provided in Section 3 of this paper). The Programme also covers different directions for development:

- Development of export potential and improvement of the export structure;
- Increase of level of competitiveness of products made in Azerbaijan;

- Improving technologies and the attraction of credits and investments in these areas;
- Development of an environment of free competition in the domestic market, provision of protection for customer's rights;
- Creation of a unified information – registration system in the area of trade, and for the provision of municipal and other services.

Procedures for the regulation of import-export transactions in Azerbaijan approved by Decree No. 609 of the President of Azerbaijan dated 24 June 1997 form the basic statutory act regulating foreign trade of Azerbaijan.

(i) *Import regulations*

The tariff structure of Azerbaijan was determined by Decree No. 91 of the Cabinet of Ministers on 22 April 1998 and subsequently changed and supplemented with Decree No. 25 dated 27 February 1999. The new tariff structure was introduced at rates of 0-15 per cent. Thus, a number of products are granted duty-free access to Azerbaijan's domestic market. The main system used for coding purposes is the Harmonized Commodity Description and Coding System (HS).⁶⁸

Existing laws allow the following types of customs duties to be applied:

- *ad valorem*, calculated in accordance with the customs value;
- specific duties, calculated at the fixed cost per unit of goods.

It should be noted that mainly specific duties have been applied.

Since 1 January 1997, there are no preferential tariff rates: imports from all sources are subject to the same tariff. Although Azerbaijan has signed preferential trading agreements with seven states of the CIS (Commonwealth of Independent States) – Georgia, Kazakhstan, Moldova, the Russian Federation, Turkmenistan, Uzbekistan and Ukraine – the trade liberalizing provisions under these agreements have not taken effect. Azerbaijan also participates in the Agreement on Creation of Free Trade Zone within the CIS of 14 April 1994. This Agreement was changed and supplemented in 1999 by the resolution of the Board of the Heads of States of CIS countries.

⁶⁸ **The Harmonised Commodity Description and Coding System (HS)** is a system for classifying goods traded internationally embodied in the International Convention on the Harmonised System Commodity Description and Coding System managed by the World Customs Organization. The Convention entered into force on 1 January 1988. Since its entry into force, the Convention has been revised twice. A third revision is expected to be completed by 2002.

There are three types of tariff exemptions in Azerbaijan. First, there is a list of products which are exempt from duties (and VAT as well), including seeds, feeds, fertilizer, animals for breeding, pharmaceutical products, capital equipment, equipment (including spare parts) used in agriculture, packaged baby food and syringes.

Second, tariffs applied to property contributed by foreign investors to the equity capital of joint ventures established in Azerbaijan.

Third, tariff exemptions also apply to goods envisaged for official use by the diplomatic missions and international organizations, humanitarian aid, free technical assistance, and in-kind contributions of foreign investors to joint ventures established in Azerbaijan.

The following *ad valorem* customs charges were imposed on exports and imports prior to April 2001: (a) state enterprises paid an *ad valorem* fee of 0.15 per cent of the customs value of goods but no less than the equivalent of three minimum monthly wages;⁶⁹ (b) in-kind contributions to a joint venture were subject to an *ad valorem* rate of 0.25 per cent but no less than the equivalent of two minimum monthly wages; (c) exports and imports in barter transactions were subject to a rate of 0.25 per cent but no less than the equivalent of four minimum monthly wages; (d) convertible currency exports and imports were subject to an *ad valorem* rate of 0.25 per cent but no less than \$ 5 (or its equivalent converted at the official rate of the manat); (e) goods shipped for further processing were subject to an *ad valorem* rate of 0.25 per cent; (f) goods imported or exported for humanitarian aid purposes were not subject to a customs charge.

However, by Decision No. 80 of the Cabinet of Minister on Rates of Customs Levies on Export-Import Transactions and Amount of Charges for Customs Registration, a flat rate of 0.15 per cent on the customs value of good is applicable to all imported goods for customs registration fees (formalities) without reference to the minimum wage while in case of foreign currencies the charge is off the nominal price. Import of goods listed in Annex I of the Procedures on regulation of import-export transactions in Azerbaijan will be exclusively carried out in accordance with the Resolution of the Cabinet of Ministers. Import of products not complying with the provisions of the Resolution is prohibited.

Concerning the import of chemical elements used for cultivation of plants, medicines used in veterinary biological preparations and medical preparations, the Ministry of Commerce issues a license after consultation with concerned

⁶⁹ The minimum monthly wage is equal to 27,500 manat.

government agencies. In the absence of a license, import of such products is prohibited.

The import of ethyl (edible) alcohol, alcoholic beverages (excluding beer) and tobacco products is subject to quantitative restrictions. While these quantitative quotas are determined annually by the Ministry of Economy, the Ministry of Commerce is the body in charge of import licenses issuance.

The system of customs valuation in Azerbaijan closely follows the principles set in the Agreement on Implementation of Article VII on Valuation for Customs Purposes of GATT. Valuation is usually based on the transaction value of goods subject to adjustment due to the inclusion of cost insurance and freight charges as well as VAT (if applicable) and excise tax (if applicable). In case of dispute over accuracy of the transaction value, one or more of the GATT valuation standards options may be used.

Importers have to submit a customs declaration on imports, accompanied by an invoice or other proof of the price actually paid, certificate of origin, and a shipment document.

Azerbaijan does not regularly use pre-shipment inspection services, nor does it have any legal regulations on pre-shipment inspection. However, in some cases importers in the private sector are using pre-shipment inspection in order to meet consumer protection requirements and technical standards. Pre-shipment inspection for veterinary control is also possible.

The same taxation rules apply to both domestically produced goods and imports. There is no internal tax levied specifically on imports.

Since Azerbaijan does not have preferential trade agreements and all imports are subject to the same rules whatever their origins, the origin of imports does not have to be controlled. Certificates of origin are required mainly for statistical purposes.

The principles and rules for identification of the country of origin embodied in the Law of Azerbaijan on Customs Tariffs (June 1997) are broadly in line with the *Kyoto Convention*.⁷⁰ These tests or criteria aim to assess “sufficiency of transformation” Other provisions of the Law include:

⁷⁰ The **Kyoto Convention** is an International Convention on Simplification and Harmonization of Customs Procedures. Entered into force in 1974. It contains many annexes, each setting out procedures related to a particular area of customs administration. Each member decides which of these it will adhere to. Not all of the annexes have entered into force. The Convention also contains rules for the determination of origin for a product. It is administered by the World Customs Organization.

- a change in tariff heading;
- determining a list of specific processing operations which do or do not confer upon the products involved the origin where the operation was realized;
- use of the percentage of value-added generated (or the percentage of materials utilized in transforming the product) in a country.

Although the existing legislation allows for applying anti-dumping measures, no mechanism for applying anti-dumping has been introduced. A draft law has been worked out and has been under consideration since June 2000 by concerned ministries as a result of the new structure worked out by the State Customs Committee.

(ii) *Export regulation*

Except for obtaining status of a legal entity, there are no special registration requirements for being engaged in export activity.

Customs export duties are not imposed on exported goods regardless of their type. The only restriction on exports is a license issued by the Ministry of Commerce and by special resolution of the Cabinet of Ministers for some groups of products. The export of goods listed in Annex I of the Procedures on Regulation of Import-Export Transactions in Azerbaijan will be exclusively carried out in accordance with the Resolution of the Cabinet of Ministers. Otherwise, export of these products is prohibited. And export of goods indicated in the Rules of Regulation of Export-Import Operations (steppe animals; wild plants and bones of animals from excavations; raw materials for medicines; snake, bee and scorpion poison; and works of art) is not allowed unless a special permit is obtained from the Ministry of Commerce. The Ministry is obliged to consult with concerned competent government agencies before taking a decision.

(iii) *National policies affecting foreign trade in goods*

Except for the development of infrastructure, completion of privatization of large state-owned enterprises and establishment of an environment friendly to private sector development, the Government is not directly involved in affecting the performance of industrial sectors. Enterprises involved in foreign trade, either exports or import, are not subsidized by the state. A certificate of conformity is required for some products.

The Law on Sanitary and Epidemiological Welfare bans the import of products that could trigger the spread of infections dangerous for people, animals, plants and food products. In order to obtain customs clearance for imported goods, certificates confirming the quality and origin of goods are required.

There are no government or non-government enterprises, including marketing boards, with exclusive rights or privileges in export or import operations. Also, there are no free zones, specializing on transit trade without customs duties on the territory of Azerbaijan. However, the draft Law on Free Zones is under consideration. This Law will determine the legal and economic ramifications of the establishment of free zones.

The Law on Nature Protection and Nature Utilization is a cornerstone of Azerbaijan's environment policy. In its present form it has little bearing, if any, on foreign trade.

Counter-trade and barter are areas regulated by the Government through the following provisions:

- registration and monitoring of barter operations, which is the responsibility of the Ministry of Commerce;
- requirement that a barter operation is completed and reception of goods in equivalent amount is obtained within 90 days.

Government procurement and sourcing policies, regulated by the Law on Tender of 4 February 1997 and Decree No. 524 of the President of Azerbaijan (12 December 1996) together with the Provision on Purchases of Goods (works, services) by State Enterprises, require competitive tendering for all purchases exceeding 250 million manat (around \$ 64,000). The procurement laws seek to ensure the transparency of tendering procedures, which are open to pre-qualified firms, both domestic and foreign.

The transit of goods can be realized by any public route. Transit is subject to transportation charges, which vary according to the size of cargo, type of transportation, etc. Goods in transit between two customs stations of Azerbaijan should be delivered to a customs station of arrival within terms established by the customs authorities at the point of departure.

Except for the oil sector, the Government is not involved in sector-specific policies.

(c) *Current trade review*

An analysis of the trade balance shows a reduction in the trade deficit (from -25 per cent of GDP in 1998 to -10.8 per cent of GDP in 1999) and an emerging surplus in the first quarter of 2000 (0.9 per cent of GDP; table 26). These changes were achieved through both an increase in exports and decrease in imports.

The trade balance in 1999 was strongly influenced by changes in the oil sector. Export of oil from new fields had risen and oil products accounted for 75 per cent of total exports in 1999, 78.9 per cent in the first quarter and 83.4 per cent in the second quarter of 2000. This increase was partly due to higher oil prices. Meanwhile, there have been some positive signs in other sectors as well since the third quarter of 1999: Exports of chemical products, metal and metal articles, machinery equipment and mechanisms and other products have significantly risen in comparison with the same periods of previous years. These trends continued in the first half of 2000. These results were partly due to improved price-competitiveness.

Table 26. Trade balance of Azerbaijan, 1995-1st Quarter 2000(a) *as per cent of GDP*

Main indicators	1995	1996	1997	1998	1999				2000	
					Q1	Q2	Q3	Q4	1999	Q1
Trade balance	-15.4	-21.8	-14.3	-25.0	-21.0	-18.1	-14.0	7.5	-10.2	0.9
<i>Of which: oil consortia</i>	<i>n.a.</i>	-6.7	-6.5	-5.3	2.3	3.5	1.2	11.2	4.7	20.2
Exports (FOB)	25.3	20.3	20.4	16.2	19.0	18.2	21.8	40.7	25.6	41.1
Imports (FOB)	40.8	42.1	34.7	41.2	39.9	36.3	35.8	33.2	35.8	40.2
Services	-5.5	-9.2	-9.7	-8.8	-8.6	-12.3	-1.7	-2.5	-5.7	-4.2
<i>Of which: oil consortia</i>	<i>n.a.</i>	-5.2	-7.8	-6.8	-7.8	-10.3	-1.2	-1.8	-4.7	-3.5

Source: ASSC (Azerbaijan State Statistical Committee).

(b) *In millions of US\$*

Main indicators	1995	1996	1997	1998	1999	2000 Q1
Trade balance	-373.1	-693.9	-566.9	-1 046.2	-408.2	9.0
<i>Of which: oil consortia</i>	<i>n.a.</i>	-212.6	-256.2	-223.2	188.4	192.8
Exports (FOB)	612.3	643.7	808.3	677.8	1 025.2	393.2
Imports (FOB)	985.4	1 337.6	1 375.2	1 723.9	1 433.4	384.3
Services	-132.3	-291.6	-384.2	-369.1	-228.3	-40.4
<i>Of which: oil consortia</i>	<i>n.a.</i>	-166.3	-309.8	-286.2	-189.2	-33.3

Source: ASSC.

Trade deficits have declined too, as imports in the oil sector decreased sharply with the stabilization of domestic investments and the drop in foreign direct investment. As the import of goods is concentrated in the oil sector and oil-related capital equipment, oil-related imports also declined. Non-oil imports also decreased in 1999, but increased again in the January-June 2000 period (food products by 36.7 per cent, chemical industry products by 51.6 per cent, plastics and plastic articles by 34.9 per cent, paper pulp, waste and paperboard scrap by 2.7 times, metals and metal articles by 40.9 per cent).

The deficit in the balance of services was reduced from -8.8 per cent of GDP in 1998 to -5.7 per cent in 1999 and -4.2 per cent in the first quarter of 2000, primarily reflecting movements in oil-related services (table 27).

The trend towards increased diversification in the direction of trade continued in 1999 and in 2000 (table 28). The share of exports to CIS countries, which accounted for about 50 per cent of Azerbaijani export in 1992-1993, has continued to decrease. It accounted for 22.7 per cent in 1999, but fell to 13.5 per cent in 2000. Exports to all CIS countries decreased. The share of exports to other countries also decreased. The Islamic Republic of Iran, which received more than one third of total Azerbaijani exports in 1994-1996, accounted for less than 1 per cent of total exports in 2000. Turkey's share of Azerbaijani exports was more sustained and represented around 6.0 per cent during 2000.

Conversely, the share of European countries increased to 69.3 per cent in 2000, due to the exports of oil extracted from new oil fields by oil consortia. The main markets were France and Italy, which received almost two thirds of total exports in the second quarter of 2000 and their share in total exports accounted for 55.5 per cent. The share of other European countries remained insignificant.

With regard to imports, the trend towards an intensification of relations with European Union countries can be observed (table 29), in particular with the Germany and United Kingdom. Azerbaijan's imports from these countries are mainly oil-related imports (equipment, metal articles and supplementary constructions for the oil sector). On the other hand, the share of CIS countries continued to shrink (except imports from the Russian Federation). Official data also showed a decrease in imports from the Islamic Republic of Iran and Turkey which represented respectively, 4.9 per cent and 11.0 per cent of Azerbaijan's total imports in 2000. However, these figures could be undervalued.

Changes in Azerbaijan's international specialization were confirmed during the first quarter of 2000. On the import side, the share of manufacturing products remained dominant during the first quarter of 2000 (78.1 per cent of the total), which contrasted with the situation in the middle of the 1990s (61.7 per cent of

**Table 27. Balance of goods and services of Azerbaijan,
1998-first Quarter 2000**

In millions of US\$

Items	1998	1999	2000 Q1	Items	1998	1999	2000 Q1
Exports of Goods (FOB)	677.8	1 025.2	393.2	Services			
Oil sector	132.5	383.3	219.0	Credit	331.7	256.8	62.8
Official exports (FOB)	606.2	928.6	314.1	Debit	700.8	485.1	103.2
Oil and oil products	392.9	704.4	247.9	Net	-369.1	-28.3	-40.4
Semi-processed cotton	49.3	21.7	9.3	Oil sector	-286.2	-189.2	-33.3
Chemical products	11.3	22.8	6.4	Transportation			
Machinery and equipment	33.4	34.7	11.0	Credit	129.0	114.0	26.2
Others	119.3	145.0	39.5	Debit	194.3	68.0	21.4
Adjustment to official data	71.6	96.6	79.1	Net	-65.3	46.0	4.8
Imports of Goods (FOB)	1 723.9	1 433.4	384.3	Travel			
Oil sector	355.7	194.9	26.1	Credit	125.0	81.1	19.4
Official imports (CIF)	1 077.1	1 033.5	295.0	Debit	169.6	138.8	36.1
Machinery and equipment	348.3	342.2	105.3	Net	-44.5	-57.7	-16.7
Food products	175.3	207.5	55.8	Communication			
Ferrous and non ferrous metals	129.7	111.1	31.3	Credit	15.7	15.8	4.6
Chemical products	79.4	57.6	20.0	Debit	6.1	7.1	2.2
Others	344.4	315.1	82.6	Net	9.7	8.7	2.4
Adjustment to the official data	646.8	399.9	89.3	Constructions			
				Credit	13.7	4.1	1.6
				Debit	137.9	177.2	19.4
				Net	-124.2	-173.1	-17.7
				Oil sector	-125.5	-139.4	-15.6
				Government services			
				Credit	11.4	20.3	5.2
				Debit	8.5	9.3	1.9
				Net	2.8	11.0	3.3
				Other business services			
				Credit	32.8	21.4	5.8
				Debit	177.4	84.5	22.2
				Net	-144.6	-63.1	-16.4
				Oil sector	-120.7	-49.8	-17.7

Source: ASSC.

Table 28. Structure of exports by main trading partners of Azerbaijan, 1992-2000

In per cent of total

Countries	1992	1993	1994	1995	1996	1997	1998	1999	2000
Total	100	100	100	100	100	100	100	100	100
CIS	49.2	51.6	43.1	44.7	46.0	48.4	38.3	22.7	13.5
Russian Federation	23.4	25.6	21.9	15.7	17.6	23.1	17.5	8.9	5.6
Ukraine	9.2	6.7	9.1	5.3	3.5	4.1	2.0	2.6	1.3
Georgia	4.1	4.2	2.6	7.1	14.5	17.1	12.7	7.7	4.3
Kazakhstan	2.6	4.2	2.6	3.2	2.4	1.1	1.7	0.4	0.4
<i>Others</i>	<i>9.8</i>	<i>10.9</i>	<i>6.8</i>	<i>13.4</i>	<i>7.9</i>	<i>3.0</i>	<i>4.6</i>	<i>3.1</i>	<i>1.9</i>
European Union	15.2	8.0	13.1	14.7	9.3	11.2	21.7	45.6	66.5
France	0.1	0.3	0.2	0.0	0.1	1.9	6.3	18.6	11.8
Germany	0.9	0.6	0.6	0.6	0.5	0.8	0.9	0.8	0.5
Italy	1.3	1.8	0.0	4.2	1.6	4.2	7.4	33.7	43.7
United Kingdom	9.8	0.4	9.7	7.6	2.1	0.2	6.7	1.2	1.1
<i>Others</i>	<i>13.1</i>	<i>5.4</i>	<i>12.4</i>	<i>9.9</i>	<i>4.4</i>	<i>2.9</i>	<i>12.5</i>	<i>9.9</i>	<i>9.4</i>
Other countries	35.6	40.5	43.8	40.6	44.7	40.4	40.0	31.7	20.0
United States	2.7	0.5	0.0	0.2	0.3	0.3	2.3	3.2	0.5
Turkey	8.5	8.4	2.6	4.2	6.2	5.3	22.4	7.4	6.0
Islamic Republic of Iran	15.4	26.6	38.0	29.2	35.8	24.3	7.3	2.4	0.4
<i>Others</i>	<i>9.1</i>	<i>5.0</i>	<i>3.2</i>	<i>7.4</i>	<i>2.4</i>	<i>10.5</i>	<i>8.0</i>	<i>18.7</i>	<i>13.1</i>

Source: ASSC.

Table 29. Structure of imports by main trading partners of Azerbaijan, 1997-2000

In per cent of total

Countries	1997	1998	1999	2000
TOTAL	100	100	100	100
CIS	25.5	23.5	22.6	32.0
Russian Federation	11.0	11.2	15.8	21.3
Ukraine	6.2	5.4	2.7	3.0
Georgia	2.7	1.5	0.7	0.9
Kazakhstan	2.1	2.6	1.7	4.9
<i>Others</i>	<i>3.5</i>	<i>2.8</i>	<i>1.7</i>	<i>1.9</i>
European Union	7.4	13.0	13.3	19.4
Germany	2.8	2.7	3.2	5.8
France	1.3	1.1	1.7	1.6
United Kingdom	1.0	4.0	4.7	5.0
<i>Others</i>	<i>4.1</i>	<i>5.2</i>	<i>3.7</i>	<i>7.0</i>
Other countries	24.8	26.0	36.2	49.6
United States of America	1.6	2.3	5.8	8.9
Turkey	13.1	12.8	9.9	11.0
Islamic Republic of Iran	3.5	2.5	3.3	4.9
Japan	0.1	0.0	3.9	1.4
Singapore	0.0	0.0	2.9	1.1
<i>Others</i>	<i>6.5</i>	<i>8.4</i>	<i>10.4</i>	<i>22.3</i>

Source: ASSC.

Table 30. Structure of imports of Azerbaijan by main products, 1995-2000*Percentage*

Items	1995	1996	1997	1998	1999	2000
Total import	100	100	100	100	100	100
Food products and animals	28.1	28.5	13.1	10.2	14.5	14.5
<i>Animals</i>	7.5	7.8	2.4	1.8	1.9	2.1
<i>Vegetable products</i>	5.2	10.1	6.3	5.7	8.1	9.1
<i>Vegetable and animal oils and fats</i>	5.5	1.8	0.5	0.3	0.9	0.9
<i>Food products, drinks, alcohol, tobacco</i>	9.8	8.9	4.0	2.4	3.6	2.4
Mineral products	10.2	4.9	7.1	5.0	6.3	7.2
Petroleum products	8.9	3.2	2.4	1.6	1.5	1.9
Chemical products	6.2	4.6	4.1	4.6	4.0	4.1
Plastics	1.2	2.2	1.7	1.4	1.2	1.1
Paper pulp, waste, scrap of paperboard	1.5	2.6	2.0	0.9	0.7	1.4
Articles of stone, plaster and cement	0.8	1.4	1.6	1.8	1.4	1.1
Metals and metal articles	4.3	6.5	8.0	7.5	7.8	8.2
Machinery equipment and mechanisms	14.9	29.6	30.9	40.8	23.9	27.4
Oil industry equipment	7.3	17.1	19.4	23.0	13.6	6.8
Transport, aircraft and water facilities	3.7	3.1	3.6	5.1	6.3	6.7
Other	3.3	4.2	4.4	5.8	6.1	5.1

Source: ASSC.

the total in 1995 and 45.4 per cent in 1994) (table 30). This reflects the collapse of the manufacturing sector, the increase of oil equipment and the high import propensity of households for new types of goods. This trend continued in 2000, despite the decline in imports of oil industry equipment.

The evolution of export specialization was even more dramatic (table 31). With the exports from new oil fields since 1998 and the high level of oil prices, the share of petroleum products increased from 65 per cent of total exports in 1999 to 79 per cent in 2000. The share of agricultural products declined partly due to the poor performance in the textile sector. The huge dependency on raw materials (86 per cent of total exports), mainly on oil products, is another illustration of the collapse of the manufacturing sector.

3. Accession of Azerbaijan to the WTO: an assessment of progress

(a) *Beginning of accession: application and circulation of memorandum*

Trade reforms in Azerbaijan like in other countries with economies in transition are of great importance to the development of the economy. Trade is an important and main lever for economic growth, expansion of goods production and services, and investment growth. At present, Azerbaijan has established trade relationships with more than 100 countries around the world, is a member

Table 31. Structure of exports of Azerbaijan by main products, 1995-first quarter 2000

Percentage

Products	1995	1996	1997	1998	1999	1999	2000
						Q1	Q1
Total exports	100	100	100	100	100	100	100
Food products and animals	6.0	4.5	7.1	7.7	6.5	10.3	4.5
Animals	0.1	0.2	0.1	0.0	0.1	0.2	0.1
Vegetable products	2.1	0.9	2.0	2.7	2.4	3.0	2.5
Vegetable and animal oils and fats	0.0	0.1	0.7	0.3	0.4	0.1	0.1
Food products, drinks, alcohol, tobacco	3.8	3.3	4.3	4.7	3.6	7.0	1.8
Mineral products	58.6	66.8	61.7	69.1	78.7	71.1	81.2
Petroleum products	58.4	66.4	61.4	64.8	75.9	65.3	78.9
Chemical products	3.1	3.3	2.3	1.9	2.5	0.9	2.0
Plastics	2.1	4.2	2.9	2.0	1.4	0.5	0.3
Textiles	19.5	10.7	17.0	9.2	2.9	7.0	3.3
Unprocessed cotton	18.3	9.3	15.8	8.1	2.3	6.2	3.0
Metal and metal articles	2.8	1.0	2.0	2.2	2.7	2.6	3.8
Machinery equipment and mechanisms	6.2	6.9	4.8	5.5	3.7	4.8	3.5
Oil industry equipment	1.3	1.1	1.0	1.2	...	...	...
Other	1.7	2.6	2.3	2.4	1.7	2.6	1.3

Source: ASSC.

of the Agreement on Free Trade Zone with CIS countries, Black Sea Economic Cooperation (BSEC), participates in bilateral agreements on trade-economic co-operation signed with seven CIS countries and other foreign countries and takes an active part in development of mechanisms for the realization of these agreements. The main trade-economic partners of Azerbaijan are countries on the list of the first ten countries by goods turnover like Georgia, Germany, Islamic Republic of Iran, Italy, Kazakhstan, the Russian Federation, Turkey, Ukraine, United Arab Emirates, United Kingdom, the United States of America, etc.

With the objective to better integrate into the international economy and international trading system and to submit the organization of trade in accordance with international norms Azerbaijan intends to accede to the WTO and become its full member.

(i) *Application*

Azerbaijan started the accession process in June 1997 by submission of a formal application of the Government of Azerbaijan to the Secretariat of the WTO after which Azerbaijan was granted observer status.

On 22 March 1999 Azerbaijan had finalized the Memorandum on Foreign Trade Regime of the country and submitted it to the Secretariat of the WTO in Geneva to circulate it among members of the Working Party established for the accession of Azerbaijan to the WTO. The Ministry of Commerce has already received questions from Australia (16 June 1999), European Union (22 July 1999), and Japan (30 July 1999) and is working at present to answer questions from the United States of America. The Ministry is also waiting for questions from other members of the Working Party which it will answer with the help of all concerned ministries. Subsequently, there will be a round of negotiations between the Government of Azerbaijan and the Working Party of the WTO on Azerbaijan. Further questions and negotiation rounds are also possible.

(ii) *Circulation of the Memorandum: questions from Working Party members and answers from Azerbaijan*

During the circulation of the Memorandum, Azerbaijan received and answered questions mainly related to the following areas:

a. *Privatization*

Issues related to privatization policy in the country were widely reflected in questions from *Australia*. The main document that regulates the privatization process in Azerbaijan is "The State Programme on Privatization of State Property in Azerbaijan for 1995-1998". In accordance with this Programme the majority of the state-owned small, medium-sized enterprises (SMEs) and a number of large enterprises have already been privatized, and despite the official end of the three-year duration of this Programme, the privatization process is still ongoing. The recent "State Programme on Privatization of State Property in Azerbaijan for 2000-2003" prepared by the Ministry of State Property along with the privatization of small, medium and large state-owned enterprises, also identifies the ways and modalities for denationalization of strategically important enterprises.

The *European Union* was mainly interested in details of the implementation process of the privatization policy and therefore requested to see a list of privatized enterprises and timetable for industries/enterprises which are in the process of privatization, and plans for the privatization of so-called "natural monopolies" in the industries like electrical power, heating energy, gas, oil and gas transportation, railway transport, telephone and mail communication services, public utilities, housing rent etc. Azerbaijan replied reflecting the current status on this matter as follows: A total number of 21,864 small state enterprises and entities had been privatized by 1 August 1999, including 9,434 entities and enterprises of everyday services, 2,231 trading and catering enterprises, 462 petrol stations, 574 bread

trade and bread-baking entities (equipment), 636 industrial enterprises and equipment, 324 construction enterprises and equipment, 6,207 transportation entities, 104 completed construction entities, 178 entities in the chemistry and chemical equipment sector, 370 leased entities, 1,285 non-housing entities, and 59 enterprises in other sectors; at least 70 per cent of established 954 middle and large state joint-stock companies had been sold at check and cash auctions by 1 August 1999. Categorized by their nature of activity, they were divided into agricultural, industrial, construction, transportation, trade, service and other enterprises. The privatization of small state enterprises had been going on since 1996, while the privatization of created medium and large joint-stock companies had started in May 1997. While there was no timetable for privatization in certain sectors in The State Programme on Privatization of State Property in Azerbaijan in 1995-1998, one was included in the State Programme on Privatization of State Property in Azerbaijan in 2000-2003 prepared by the Ministry on State Property of Azerbaijan. According to the 2000-2003 State Programme, enterprises of national importance, i.e. gas enterprises and units (including offices administrating them), urban and regional engineering-infrastructure units (including electricity, heating, gas, water, sewage and city lights services), and enterprises which are exploiting, servicing, and maintaining them are to be privatized by Decree of the President of Azerbaijan.

b. VAT, Excises and Customs Charges

Australia had queries about the domestic procedures for the application of VAT to imported goods; about the VAT rebate system for exported goods; and about the methods for excise collection applied to imported and domestic products. Azerbaijan submitted more information on these issues in the Memorandum. Thus, it was pointed out that Azerbaijan applies VAT on imported goods and services produced in countries other than CIS and on imports produced in CIS countries, which levy VAT on imports from Azerbaijan (changed by the new Tax Code). A sum of customs value, customs tariff and excise tax (if goods are subject to excise tax), is taken as a base while calculating VAT for goods produced outside the CIS and imported to Azerbaijan, as well as for goods produced in the CIS, but imported from other countries. Excise tax rates applied to imported goods differ from the rates of excise tax applied to the same locally produced goods. The method of calculation of the amount of excise tax for imported products, which are subject to excise tax, is the same as the one used for domestic products.

Japan also expressed its interests in the application of domestic taxes including VAT and excise tax and asked whether Azerbaijan treated both domestically produced and imported products in a non-discriminatory manner. Azerbaijan

stated that duties levied in the territory of Azerbaijan consist of Value Added Tax (VAT) and excise taxes. VAT is levied on imported products and domestically produced products based on the basis of equal rules and rates. Preferential treatment is not allowed. At present, excise rate taxes levied on imported products and on domestically produced products are different. It is worth noting that a new Tax Code was approved on 1 January 2001, which revised the VAT treatment regime for imports.

The *European Union* requested details of the exceptions for “foreign trade operations”, and a complete list of VAT-free imported goods, as well as the legislation governing these VAT-free imported goods. Azerbaijan replied that in accordance with the prevailing legislation at that time, in particular the Law of Azerbaijan on Value Added Tax (31 December 1991), imported commodities produced outside the states – CIS members are subject to payment of value added tax in an established order to Customs when crossing the state border of the Azerbaijan Republic. Commodities (works, services) exported outside states – CIS members are subject to value added tax payment at a rate of “0” (zero) per cent (this type of treatment is changed by the new Tax Code by the 1 January 2001). The level of customs fees levied on the basis of customs registration in addition to the ad valorem charges had been adapted by Resolution No. 91 of the Cabinet of Ministers on Customs Tariff Rates for Import-Export Operations in Azerbaijan (22 April 1998). Changes and amendments were made to this Resolution by Resolution No. 25 dated 27 February 1999. The *European Union* stressed the importance of compliance of relevant tax levies with WTO standards.

The coverage of the foreign trade regime of Azerbaijan in the European Union questionnaire was supplemented by a paragraph devoted to details on exceptions to foreign trade operations and a complete list of VAT-free imported goods and the legislation governing these VAT-free imported goods. One of the questions from the European Union related to ad valorem charges listed in the Memorandum under customs duties. It is very important that in accordance with Article VIII “Fees and Formalities connected with Importation and Exportation” of GATT, charges imposed on the import of goods must correspond to the cost of services rendered. Therefore there was a request to note that fees that cover the cost of the service rendered cannot be in ad valorem format and that Azerbaijan should provide information about the manner by which it will reform the ad valorem charges to bring them into conformity with GATT Article VIII.

c. WTO Agreements on Technical Barriers to Trade and on Sanitary and Phytosanitary Measures

Australia submitted many questions on different tax levies and licensing procedures applied on imported goods and their compliance with the Agreements

on Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary Measures (SPS) of the WTO. Specific reference was made to the principles of national treatment and Most Favoured Nation (MFN) in applying the agreements and to the supply of services under the agreements.

The *European Union* submitted questions concerning the Agreement on Technical Barriers to Trade, in particular on issues like: whether standards used in Azerbaijan are of a voluntary or mandatory nature, explanation behind mandatory standards, and Azerbaijan's intention of gradually moving away from the use of former GOST-standards⁷¹ to the use of international standards; confirmation that Azerbaijan will move to the use of international standards, and request to provide a timetable for this transition. They also cover the matter whether certification and accreditation are mandatory or voluntarily, the existence of an Enquiry Point⁷² in Azerbaijan and the way adapted rules are enforced. Azerbaijan stated that standards used in Azerbaijan are of a mandatory nature. The standards are prepared according to the State Standardization System. There are mandatory and advisable requirements in the standards. A certain period of time is required to move from mandatory to voluntary standards. This transition period is shown in the Programme of Arrangements. Azerbaijan pointed out that international standards can be used according to the Law on Standardization.

An Information Centre and database on the EU (European Union) standards, regulations and laws was established in Minsk under the EU's Tacis Programme, and a similar Centre for Azerbaijan in Baku makes direct use of it. At the same time, in accordance with the Bilateral Agreement with the Turkish Standards Institution (TSE), the Centre can directly use the standards applied by the TSE.

In addition it is worth noting that Azerbaijan has been a member of the International Standardization Organization (ISO) since 1998. According to the requirements of International Organization for Standardization and International Electrotechnical Commission (IEC) major efforts are taken to streamline GOST-standards used between the CIS countries.

⁷¹ GOST Standards – Are standards system established by the former USSR Centralized Standardization Agency for classification of goods among Soviet states.

⁷² While the notification authority typically handles questions on notified draft measures, the enquiry point is responsible for answering questions on all existing measures (even those that existed before the WTO Agreements came into force). The enquiry point system is important so that countries could easily obtain information about internal procedures, without having to identify and directly contact the agency responsible for any given function in another country. The enquiry point is the single contact point to which any relevant enquiries can be made. It is the single government body responsible to provide "answers to all reasonable questions" from interested countries, as well as for the provision of relevant documents and obtaining the answers from the relevant national bodies.

Japan made a point concerning the establishment of the Enquiry Point in Baku. In response, the Japanese delegation was informed that the establishment of a national Enquiry Point is under way. At present, the necessary equipment needed for the Enquiry Point is being purchased. Considering that the effective functioning of the Enquiry Point requires financial resources and personnel it is difficult to tell the exact starting date of its full operations.

d. Intellectual property rights and related rights

The *European Union* addressed issues related to the Trade-Related Intellectual Property (TRIPs) Agreement. Interest in this area was directed to foreigners' rights in local courts on intellectual property and related rights cases. In response, Azerbaijan delivered information on rules and laws regulating TRIPs-related issues in Azerbaijan, including those on Copyrights and Related Rights, on Antimonopoly Activity, on Unfair Competition, on Trademarks and Geographical Indicators and the Customs Code related to the Agreement and the Law of Azerbaijan on Patents which were all submitted to the WTO Secretariat. Azerbaijan will also submit TRIPs-related draft laws and legislation to be adopted to the WTO Secretariat.

Since 2 April 1999 Azerbaijan has been making changes and additions to the Civil Code and the Code of Azerbaijan on Administrative Offences with regard to the implementation of the Law on Copyrights and Related Rights to bring them in line with the new law concerning copyrights and international standards.

In addition Azerbaijan is a member to an Agreement on Co-operation in the Area of Copyrights and Related Rights signed by the CIS countries on 2 February 1996. Azerbaijan is a party to the World Geneva Convention on Copyrights (since 7 February 1996 as an independent state and since 27 May 1973 the date when the USSR became a member of the Convention) and a member of the Bern Convention for the Protection of Literary and Artistic Works (27 November 1998) as well.

e. Import licensing

Australia showed interest in Azerbaijan's regime for import licensing and quantitative restrictions on imports of alcohol, alcoholic beverages and tobacco substitutes. In response, Azerbaijan stated that, according to the existing legislation, the import of ethyl alcohol, alcohol beverages and tobacco substitutes is carried out through licensing procedures. The purpose of this measure is to establish an orderly circulation of alcohol beverages and tobacco products.

Taking into consideration the potential danger of alcoholic beverages and tobacco products to human life and health, it is worth noting that the implemented licensing doesn't reflect restrictions on imports per se, but is rather aimed at establishing an efficient control system in this area and to protect the health of the population. This import licensing is considered to be in conformity with the exceptions reflected in Article XX on "General Exceptions" paragraphs (b) and (d) of GATT 1994.

Japan stated that the import licensing requirements for ethyl alcohol, alcohol beverages and tobacco products seem, in their view, to be inconsistent with the prohibition of quantitative restrictions prescribed by Article XI on "General Elimination of Quantitative Restrictions" of the GATT 1994. *Japan* also asked for an explanation on details about the justification of the licensing requirements for importing those products in relation to Articles XX on "General Exceptions" and XXI on "Security Exceptions" of the GATT 1994. As pointed out above, the legislation of Azerbaijan authorizes licensing for the import of ethyl alcohol, alcohol beverages and tobacco substitutes with the purpose of establishing an orderly circulation of alcohol beverages and tobacco products. Azerbaijan stated in reply that the import licensing of these products is implemented in order to prevent their illegal import to the country, escape from taxes, unfair competition practices and also to protect consumer's rights.

f. Questionnaire from the United States of America

A comprehensive questionnaire was submitted by the representatives of the *United States* to the Secretariat of the WTO in Geneva. The *United States* tried to cover all aspects of the foreign trade regime of Azerbaijan with focus on the different procedures of licensing and certification applied aiming to regulate the domestic and international trade policy of the country. Referring to the section in the Memorandum about the price control policy carried out in Azerbaijan, the *United States* forwarded more detailed questions on the regulation of price controls and restrictions imposed by legal authorities. In this context, special attention was given to issues related to foreign and local currencies, regulation of foreign exchange, and restrictions on different kinds of currency transactions. In response, the *United States* was informed that in accordance with the current legislation, the national currency (manat) could be freely converted to any foreign currency. These operations are carried out through the internal conversion of the Baku Interbanks Currency Exchange Markets, Organized Interbanks Currency Markets, Open Interbanks Currency Markets and Banks, and other details regulated by the National Bank.

Another issue related to the division of authority between central and sub-central form of government. As stated in the Memorandum, the heads of local executive authorities carry out the executive power in the regions (districts, cities), while local government authorities grant subsidies and levy taxes independently.

The sub-section in the Memorandum on the description of judicial or administrative tribunals or procedures indicated the right of appeal to courts on administrative decisions taken by the authorities on issues covered by WTO provisions etc. Azerbaijan seriously intends to bring its policy affecting trade in goods into conformity with WTO requirements, which was specifically emphasised in reply to questions from member countries.

The United States was interested in the modalities for customs evaluation carried out in Azerbaijan and asked many questions related to the WTO "Customs Valuation" Agreement. The United States was informed that Azerbaijan is now preparing the necessary procedural changes to bring its laws in conformity with the Agreement. It was also noted that a huge amount of assistance is provided by international organizations such as the TACIS project under which customs authorities from the European Union provide technical support for the review of relevant laws in Azerbaijan.

The final and major point made by the United States referred to the trade-related intellectual property regime in Azerbaijan. Questions and comments were given with regard to copyright, trademarks, geographical indications, industrial designs, patents, layout-designs of integrated circuits, disclosed information etc. Many provisions of the laws of Azerbaijan on intellectual property are inconsistent with WTO provisions and don't cover many aspects of intellectual property rights but efforts are now being taken to bring them in conformity with international standards. The United States also requested the Azerbaijan side to provide more details on foreigners' rights while registering trademarks, geographical indications etc. in Azerbaijan, as well as rights of appeal to local courts on violations of the law.

All remarks made by all countries were taken into account and disseminated to all concerned government authorities for consideration and reply.

(b) Issues for future Working Party negotiations

(i) Customs valuation

Bilateral and multilateral negotiations to be held in the next round with Azerbaijan participation will put on the agenda measures Azerbaijan has taken to

address the concerns expressed by Working Party members and to comply with the provisions of the WTO Agreements.

A major issue concerns the WTO rules regarding customs fees, which generally prohibit the imposition of *ad valorem* fees such as those charged by Azerbaijan (which vary from 0.15 to 0.25 per cent). Customs fees must instead be directly related to the actual cost of services provided. WTO members may also object to the fact that state enterprises are subject to a lower fee on their imports than private entities. As demonstrated below, various countries have agreed to eliminate or phase out such fees that were or are currently in place, or not to introduce such fees in the future.

For example, Georgia, after accession, will fully apply the WTO provisions concerning customs valuation without recourse to a transition period, in addition to the provisions on the Implementation of Article VII on “Valuation for Customs Purposes” of the GATT 1994, Annex I (Interpretative Notes) and the provisions on Customs Value of Imported Goods. In accordance with these latter provisions, only the cost of the carrier medium itself will be accounted for in the customs value. The Government of Georgia will not use any form of reference price or fixed valuation schedule for the valuation of imports or apply duties and taxes, and before the date of accession the customs valuation regulations will be amended to provide that the right of appeal is without penalty, and in Article XV (1) (1a) (IV) to provide that transportation costs are limited to “the cost of transport of the imported goods to the place of importation in Georgia”.⁷³ The Government of Georgia “intends to annex a copy of the WTO interpretative notes to the Customs Valuation Agreement to its Regulations prior to accession, and will provide a copy of this annex to the Working Party”.

In the case of Kyrgyzstan, the country does “not have any import reference prices in place and any such measures would not be reintroduced after accession, except in accordance with WTO Agreements”. The Government of Kyrgyzstan will “fully apply the WTO provisions concerning customs valuation from the date of accession, including, in addition to the Agreement on the Implementation of Article VII on “Valuation for Customs Purposes” of the GATT 1994, and the provisions on the “Treatment of the Interest Charges in Customs Value of Imported Goods”. The provisions of Article VII of GATT 1994 would supersede domestic law after accession, and “upon accession, minimum customs prices will not be applied for customs valuation purposes”.

⁷³ Quotations provided in the “**Laws and Policies of the United States of America Concerning the Accession of Azerbaijan to the World Trade Organization**” Report of commitments On Customs Valuation undertaken by Georgia and Kyrgyzstan upon membership of the WTO.

(ii) *Implications of Azerbaijan's existing trading arrangements with CIS States for its WTO accession*

Although free trade agreements (FTAs) and customs unions are generally inconsistent with the universal Most-Favoured-Nation Treatment obligations of GATT Article I, they are nevertheless permissible if they meet the requirements set by GATT Article XXIV on "Territorial Application – Frontier Traffic – Customs Unions and Free Trade Areas". Estonia, Georgia, and Kyrgyzstan pledged to operate any FTAs or customs unions in conformity with the provisions of GATT Article XXIV. Georgia and Kyrgyzstan also made commitments regarding their preferential treatment of developing countries.

One apparent anomaly exists with regard to the information that Azerbaijan and Kyrgyzstan have provided on their respective trade regime. Kyrgyzstan has already notified the WTO that the FTA it reached with Azerbaijan and nine other former Soviet republics on multilateral bases. This information appears to be at odds with Azerbaijan's statement that the liberalizing provisions of its preferential trading agreements have not come into effect. Along with this, Kyrgyzstan is not among the seven countries, which Azerbaijan is bilaterally contracting with.

The Agreement on "Creation of a Free Trade Area" within the CIS bound signatories not to impose import or export duties or quantitative restrictions on goods originating in signatory countries. The Agreement provided that the parties would agree on goods to be excluded from the free trade regime, but this has not been done. The Agreement required each party to authorize free transit over its territory of goods originating in another party and destined for a third party. The Agreement also required the signatories to accord national treatment with respect to (i) domestic taxes and levies of a fiscal character, (ii) other restrictions or requirements, and (iii) rules on transit, warehousing and payment. Parties were free to take quantitative or other protective measures in response to shortages; for balance of payments reasons; or to redress significant injury caused by imports or threat thereof, to domestic producers. Each party remained free to adopt measures to protect public health, morals, order and security, plants and animals, national treasures and intellectual property.

With regard to the implications of Azerbaijan's existing trading arrangements with CIS states for its WTO accession it can be noted that the WTO has been willing to allow the accession of Georgia and Kyrgyzstan to proceed without reaching any conclusions as to whether the trading arrangements of these countries with other CIS states are compliant with Article XXIV on "Territorial Application – Frontier Traffic – Customs Unions and Free Trade Area". However both

countries have entered into commitments to notify their CIS arrangements to the WTO Committee on Regional Trade Agreements (CRTA) and to have them examined.⁷⁴

It is therefore quite possible that before Azerbaijan accedes the CRTA will have completed its examination of agreements involving Georgia and Kyrgyzstan. To the extent that this process results in definitive conclusions as to the WTO conformity of the agreements, the process will have implications for Azerbaijan. It is noteworthy however, that in previous cases submitted to GATT, the CRTA seems to find it very difficult to arrive at consensus. This of course reflects the fact that terms used in Article XXIV lack clarity and also the political difficulties involved in amending politically sensitive regional agreements that are found to be non WTO compliant but which are already in force.

Unless the CRTA in its ongoing examination of CIS trading arrangements concludes that the CIS agreements do not conform to Article XXIV requirements, it should be possible for Azerbaijan to negotiate similar language and commitments in its accession instruments. Other country examples illustrate this point:

For example, Georgia had signed 30 bilateral agreements containing substantive provisions directly affecting foreign trade in goods and/or services. Georgia had concluded Free Trade Agreements with Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Turkmenistan, Ukraine and Uzbekistan, but only those with Armenia, Azerbaijan, the Russian Federation and Ukraine had been ratified and were effective.

(iii) Objectives of the United States in negotiations with Azerbaijan

The principal concern of the United States of America in future negotiations will most likely be value-added taxes (VATs). The United States negotiators will insist that VATs or similar charges be applied on the basis of a “destination principle” rather than an “original principle”. This means, for example, that Azerbaijan cannot apply its taxes in a way that discriminates in favour of Russian Federation products. While tariffs can indeed be applied in a discriminatory fashion (provided that the FTA or customs union meets the standards of GATT Article XXIV), such discrimination is not permissible with respect to domestic

⁷⁴ Kyrgyzstan has notified bilateral agreements with Moldova, the Russian Federation, Ukraine and Uzbekistan and a “plurilateral” “Customs Union” Agreement with Belarus, the Russian Federation and Kazakhstan. Also notified on 1 October 1999 (presumably by Kyrgyzstan although this is unclear) and “under examination” is the Agreement among Azerbaijan, Armenia, Belarus, Georgia, Moldova, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan, Ukraine, and Uzbekistan. This Agreement, which is listed as entering into force on 30 December 1994, is presumably the agreement creating a “Free Trade Area”.

taxes. Azerbaijan's current VAT regime appears to be inconsistent with this principle. Imports from the Russian Federation and other CIS countries are currently exempted from a 20 per cent value added tax that is applied to most imports, because the VATs for the CIS countries (except for Kazakhstan) are assessed in the country of origin. WTO member countries might further object that the terms by which the VAT is applied are discriminatory, insofar as it is also applied to customs tariffs. For example, an item imported into Azerbaijan from a CIS country would be exempt from both the typical 15 per cent tariff and the 20 per cent VAT, as well as an additional 20 per cent on the 15 per cent (i.e., 3 per cent). Taken together, this means that the same item imported from a non-CIS country would face tariff and VAT charges that total 38 per cent ad valorem. This is a matter that the United States negotiators are certain to rise in the upcoming talks.

All of the non-market economies that have acceded thus far have made commitments with regard to specific service sectors. The scope of commitments varies widely, however, and is based in part on the period in which the accession was negotiated. New service agreements are constantly being negotiated among the WTO members, and new countries that accede to the WTO are asked to make commitments that are in line with the expanded WTO regime. This can include commitments to participate actively in those talks that are underway or planned at the time of a country's accession. The least complete schedule of concessions is from the first country to accede (Mongolia), while the more recent accessions have covered a wider array of sectors.

Azerbaijan will be required to negotiate a schedule for the liberalization of its agricultural sector. This will entail a calculation of the aggregate measure of support (AMS) currently extended to producers, and the negotiation of a schedule by which the AMS is to be reduced progressively. Azerbaijan will have a certain amount of freedom in deciding exactly how the reduction will be achieved. The country could opt to distribute the reductions evenly throughout the agricultural sector, or might alternatively decide to cut supports for some products at a faster rate than for others.

The United States negotiators identified licensing as a "big problem" in Azerbaijan, and one that will be a particular focus of scrutiny in the upcoming Working Party meetings. Azeri compliance with the terms set by the agreements on technical barriers to trade (TBT) and sanitary and phytosanitary (SPS) measures will be a matter of close attention in the upcoming negotiations. The United States negotiators are particularly insistent that Azerbaijan doesn't impose mandatory standards on imports. A key distinction is drawn here between the standards that are set by non-governmental entities and the technical regulations that are issued

and enforced by governmental bodies. The United States negotiators insist that only the latter should be mandatory. WTO rules further require that a country establish enquiry points on matters related with the Agreements on Technical Barriers to Trade and Sanitary and Phytosanitary measures, which are ordinarily established within the ministries that have jurisdiction over these matters. A government must also provide for the right to appeal decisions before a separate tribunal.

While Azeri negotiators will deal primarily with their counterparts in the executive branch of the United States Government, the process of normalizing trade relations is not solely a diplomatic exercise. The preceding analysis has highlighted two items of importance that must be approved by the United States Congress before those relations can be conducted on a normal basis. The most significant of these, from the perspective of WTO accession, is the graduation of Azerbaijan from the Jackson-Vanik Amendment.⁷⁵ Unless and until this is done, the United States will be legally obligated to invoke non-application upon the accession of Azerbaijan to the WTO. Moreover, section 907 (see below) outlining restrictions on United States assistance to Azerbaijan pose an additional impediment to the establishment of normal and co-operative economic relations. Congress has the sole authority to repeal these laws, which might be dealt with as closely related political issues. Both matters may be used by pro-Armenian members of the United States Congress as a means of putting pressure on Azerbaijan.

The dispute over the status of Nagorno Karabakh may have an indirect impact on the negotiations over Azerbaijan's accession to the WTO. The linkage may manifest itself in three ways: (a) by reducing the extent of technical assistance that the member countries can extend to Azerbaijan in its accession process, (b) by creating delicate questions raised by negotiators in the Armenian accession and, (c) by establishing a potential obstacle to congressional development assistance to Azerbaijan. The European countries interests in developing Caspian oilfields may nevertheless counterbalance the concerns over this issue, at least in part.

⁷⁵ The "Jackson-Vanik" amendment to the Trade Act of 1974 sets the terms under which the United States extends special treatment to Azerbaijan. This status also effects the accession of Azerbaijan to the WTO, insofar as the United States cannot extend full WTO treatment to any country as long as it remains subject to Jackson-Vanik. If Azerbaijan accedes to the WTO before the country is "graduated" from Jackson-Vanik (i.e., Congress enacts a law removing it from the list of Jackson-Vanik countries), the United States will be legally obligated to invoke the WTO non-application clause (Article XIII). Three periods mark Azerbaijan's experience under this law and its predecessor: the years 1952-1974 (when MFN (most favoured nations principle) treatment was denied to the Soviet Union under an earlier law), 1975-1995 (when the Jackson-Vanik law denied MFN treatment to the Soviet Union and independent Azerbaijan), and 1995 – (when Azerbaijan has received NTR (normal trade relations) treatment on a conditional basis). The principal question now is when Azerbaijan might enter into a fourth period, in which it receives NTR treatment on a permanent and unconditional basis.

The key United States policy instrument here is section 907 of the “Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support” Act of 1992 (more commonly known as “FREEDOM Support” Act). Bluntly stated, the American Armenian lobby persuaded Congress to enact this provision as a means of applying pressure on Azerbaijan.

The purpose of this overview is to analyze the specific commitments that the United States will seek in its negotiations with Azerbaijan. The analysis is based on several sources but can only be preliminary. In particular, it should be emphasized that Azerbaijan is a relatively small trading partner of the United States, and its accession to the WTO is at an early stage. The country’s status as a small trading partner means that it’s not routinely included in some of the standard reports prepared by the United States Government agencies, such as the National Trade Estimate report issued by the office of the United States Trade Representative (USTR), or the State Department’s Country Reports on Economic policy and Trade Practices. These two annual reports often provide useful guidance on the priorities of the United States in its trade negotiations with a partner. In the absence of these documents, Azerbaijan instead relies on policy-oriented documents, such as cables from the United States in Baku and the country commercial guide (which is directed at the needs of business people rather than trade negotiators). Moreover, the fact that Azerbaijan’s accession is still at an early stage means that views of the United States private sector on Azerbaijan are not yet well developed. It is the common practice of the USTR to publish a notice in the Federal Register requesting that interested parties provide comments on the proposed accession of a country to the WTO. Such notices usually lead to the submission of two dozen comments, focusing largely (though not exclusively) on the tariff concessions that United States export-oriented industries hope the USTR can secure in the course of negotiations. It is not known yet when the USTR will publish such a notice with respect to Azerbaijan. Once such notice has been published in the comment file, additional insight into the objectives of the United States negotiators will be available.

Many of the questions will focus on how well Azerbaijan’s current laws and policies comply with the two central principles of the WTO regime: MFN treatment (GATT Article I) and national treatment (GATT Article III). MFN treatment prevents a country from discriminating between one trading partner and another, while national treatment prevents a country from discriminating between its own domestic firms and firms from another country. For example, the United States extends both MFN and national treatment to France. The MFN principle means that the United States must apply the same tariffs to French imports as it applies to imports from Australia, China, or Japan. The national treatment principle means that the United States cannot apply taxes or erect other

barriers to French products that are more restrictive than those applied to goods of United States firms. Virtually any aspect of a country's regime might be scrutinized to determine whether it is inconsistent with these two articles.

In the absence of detailed information about Azerbaijan or the United States assessments of the country's trade regime, the principal indicators employed here are the terms of other countries' accessions. Of the eight countries which have acceded thus far to the WTO (or will do so soon), six are non-market economies: Bulgaria, Estonia, Georgia, Kyrgyzstan, Latvia, and Mongolia. Commitments made by these countries offer general guidance on the types of issues that might arise in the talks with Azerbaijan, but it must be stressed that each accession would in some sense be special. The fact that one country pledged to eliminate a barrier to imports of used automobiles, for example, will be significant for another applicant only if that country has a similar barrier in place. By the same token, an applicant might employ some policy measures that have not been encountered in earlier negotiations.

(c) *Preparations for negotiations*

(i) *Establishment of national Working Group*

Azerbaijan has made positive steps towards better regulation of accession process, and improved co-ordination and communication between related ministries and agencies. In this context, the President of Azerbaijan signed Decree No. 160 on Additional Measures for Trade Regulation in Azerbaijan on 23 July 1999 approving the State Programme for Trade Development 1999-2002 in Azerbaijan which was determined as one of the main measures in the acceleration of the accession process to the World Trade Organization. In order to implement this decree, the Cabinet of Ministers signed Decree No. 226s on 19 November 1999 that stipulated the establishment of a National Working Group consisting of fifteen concerned ministries and enterprises.

This Group consists of officials from the Ministry of Commerce, Ministry of Taxes, Ministry of Agriculture, Customs Committee, Ministry of Foreign Affairs, Ministry of Economy, Ministry of Finance, Ministry of Justice, State Standardization and Metrology Centre, State Copyrights Agency, National Bank, Ministry of State Property, State Antimonopoly Policy and entrepreneurship Support Committee, Ministry of Health etc. The Group has actively participated in Questions & Answers stage of the accession process.

The main task of the National Working Group of Azerbaijan is to bring national legislation of Azerbaijan into line with requirements and norms provided

in agreements of WTO. And in this context, it is important to emphasise the importance of having training programmes for members of the National Working Group to familiarize themselves with norms and procedures in the implementation of reforms in legislation. Practice shows that the United States provides maximum support to transition economies, developing countries in the accession to the WTO and it would be very beneficial for Azerbaijan to have such kinds of support programmes.

The first session of the National Working Group was held on 1 March 2001 in order to finally formulate a common position. The Group was divided into the following sub-groups:

- Tariffs
- Service
- Intellectual Property rights
- Agriculture

(ii) *Strengthening relationships with international organizations*

In order to establish an effective system for the application of WTO requirements and rules in the country, Azerbaijan has established relationships with international organizations such as the World Bank, International Monetary Fund (IMF), TACIS Programme, and the European Union. The Government of Azerbaijan, with assistance of international organizations, managed to organize the following seminars in the Ministry of Commerce:

- ◆ With the United Nations Economic and Social Commission for Asia and the Pacific on Asia-Pacific Ocean region (ESCAP) – on trade policy and assistance in trade development;
- ◆ With the Commission of the United Nations on international trade law (UNCITRAL) – on international trade;
- ◆ With the World Intellectual Property Organization (WIPO) – on trade aspects of intellectual property.

Besides these, specialists from the Ministry of Commerce participated in many different seminars and educational studies organized by the WTO. It would be beneficial for the country to have further relationships with these and other organizations in the accession process.

(iii) *Other measures*

Another major step towards improvement of the national economy and attraction of FDI will be the application of a better investment regulation system. Thus, in order to increase the volume of FDI in all sectors of the Azerbaijan economy, the Ministry of Commerce has developed a draft Project Law on "Protection of Investments". The Project proposes to exempt FDI projects from future restrictions resulting from national legislation concerning investments, with the exception of defence projects, for a period of ten years and that applied laws will be ones existing at the time when the investments were made.

In accordance with WTO rules, after the Questions & Answers stage of the accession has been completed, the country starts bilateral and multilateral negotiations with other member countries. In this context, it should be emphasized that there are several partners that expressed their will to carry on bilateral negotiations with Azerbaijan and the Government is now preparing for this.

As one of the major measures carried in the accession process it should be emphasised that The Customs Committee has prepared new Tariffs on Harmonization System (HS) that is widely applied in international practice. At present, rates for tariffs constitute 15 per cent, though there were attempts to increase it to 25 per cent.

Azerbaijan has also developed a draft project for the establishment of a united National Center on Expertise on Quality of Consumer Goods.

Azerbaijan is now getting ready to prepare tariff offers based on existed tariffs for submission to the Secretariat of the WTO and will shortly complete translation of answers to questions from the United States and will send it to Geneva for circulation. The problem concerning translation and implementation of main terms used in relative agreements of the WTO needs to be emphasized.

The world's main economies have supported Azerbaijan's intention to accede to the WTO and has welcomed its efforts to integrate into the world trading system and forge further economic cooperation. Azerbaijan will continue multilateral negotiations within the framework of the Working Party and any country interested in trading with Azerbaijan will be participating in the negotiations.

(d) *Implications of WTO membership for Azerbaijan' economy*

While Azerbaijan is preparing to answer questions raised by WTO Member Countries, of course, it will also raise questions itself, especially with regard to requirements set for Azerbaijan as a potential member of WTO and implications

for its economy. In case these requirements will negatively impact the economy, Azerbaijan will require delays in the implementation of its WTO obligations as allowed by special and differential treatment provisions for developing countries contained in the various WTO Agreements and in view of the fact that Azerbaijan is indeed a developing country.

As far as Azerbaijan's cooperation with the WTO is concerned, the country strengthened its efforts in reviewing its foreign trade policy and reorganizing government structures related to trade and trade policy and assessing the implications of WTO membership for the national economy.

In this context, several legislative acts and normative documents aimed at adapting taxation and tax legislation, solving such problems like abuse of power by government authorities, interference of companies in domestic politics etc. have been adopted.

Membership in the WTO will stimulate the creation of effective mechanisms for encouragement of export, attraction of FDI, strengthening the infrastructure for trade, in particular the establishment of business-centers, computer networks for the development of e-commerce, commodity stock exchanges, trade transactions ensurance system etc.

At present, Azerbaijan is trading with more than a hundred countries around the world. The trend towards expansion of export-import relationships with countries far away from Azerbaijan along with a decrease of such relationships with CIS countries is clearly observable. The volume of trade with CIS countries went down from \$ 671.3 million in 1998 to \$ 442.6 million in 1999, whereas trade turnover with non-CIS countries witnessed steady growth reaching \$ 611.0 million in 1999 (in comparison with 1998 when it declined by 10.7 per cent).

All CIS countries established after the collapse of the former Soviet Union, except Tajikistan and Turkmenistan, expressed their wish to be a full member of the multilateral trading system ruled by GATT/WTO. Moreover, some countries declared that they wanted to become a member in relatively short time. This position can be explained by the presence of a political decision and aspiration of CIS countries for completion of the accession process before China and the Russian Federation. This would enable new members of WTO to have a chance to take part in bilateral negotiations on access to markets of goods and services held in the final rounds of negotiations on accession to the WTO of these two large countries.

An analysis of reports of sessions of the WTO on accession of former Soviet Union countries shows that leading trade partners such as Australia, Canada,

the European Union, Japan and the United States are maintaining rather strict positions. They press acceding countries for maximum concessions in access to markets for their goods and services, and insist on admission of commitments not originally included in the multilateral agreements of WTO.

In the negotiation process on access to markets of goods and services, member countries of the WTO each have an individual approach. In another words, each country declares its requirements to the acceding country individually. Though the nature of the requirements submitted by Working Party member countries is determined by the level of economic development of both the member country and acceding country, the volume of goods turnover between these two countries and also the level of liberalization of both countries also plays an important role.

An explanation of the necessity of Azerbaijan's full participation in the multilateral trading system should start with an assessment of expected effects of participation. In another words, it is necessary to assess both the benefits for the country after accession to the WTO and the losses that country will incur during and after accession for implementation of the commitments as a full member.

Arguments in favour of Azerbaijan's membership in WTO are as follows:

- It creates a more predictable and safe trade atmosphere for exporters as a result of improved norms and rules regulating foreign economic relations;
- The application of the MFN principle will provide non-discriminative trading conditions for domestic exporters;
- It will improve the access to foreign markets;
- It opens opportunities for participation in multilateral agreements, including those concerning trading in intellectual property, trade-related investment measures, and General Agreement on Trade in Services (GATS);
- It allows the country to have its say in WTO sessions aimed at the development of a multilateral trading system by participating in such sessions;
- It allows access to dispute settlement mechanisms aimed at protecting economic interests of the country in cases of abuse by trading partners.

These advantages are first of all provided by the multilateral mechanisms, which constitute the base of GATT/WTO functioning system.

Participation of Azerbaijan in GATT/WTO will ensure the creation of a predictable trade and investment environment. This will lead to the attraction of investments into compatible and export-oriented sectors of the economy. Implementation of regulations of foreign economic relations of Azerbaijan based on internationally accepted principles and mechanisms will stimulate domestic companies to produce compatible products, and learn about modern methods of marketing.

It is also interesting that Azerbaijan will get privileges from member countries of the WTO as stipulated by some of the Uruguay Round agreements. Thus, Article 29 on the "Transformation into Market Economy" of the Agreement on Subsidies and Indemnity Measures stipulates positive and flexible provisions for those countries which are in the "transformation from a centrally-planned to a market, free enterprise economy", allowing these countries to implement programmes and measures necessary for making adjustments in the transition period. Moreover, Article 65.3 on "Transitional Arrangements of the Agreement on Intellectual Property Rights" stipulates that countries with an economy in transition, along with developing countries, can (with some exceptions) delay the application of provisions of the Agreement for five years. Article XII on "Restrictions of Safeguard the Balance of Payments" of GATS stipulates that in cases of serious balance-of-payment difficulties, countries with transition economies may use restrictions to ensure, *inter alia*, the maintenance of a level of financial reserves sufficient for the implementation of its programmes of economic development or economic transition. Taking into account the conditions under which the aspiring country accedes to WTO, it stands to benefit from WTO membership.

4. Conclusions and recommendations

(a) Country level

In accordance with the agreements of the Uruguay Round, a full member of the WTO can only be a country that admits and complies to all agreements in force, with no exception, within the framework of the multilateral trading system. In this context, Azerbaijan has to bring its legislation into line with the requirements of the GATT/WTO straight from the beginning. The phrase "to bring into line with" is being understood as a need to make certain changes in the national legislation concerning foreign economic relations and adoption of legislation that is in line with norms, principles and rules of the multilateral trading system.

While considering the problems the country will face as a result of the accession process, as was mentioned before, the economic costs of course will be indemnified in the long run due to the effective system of the WTO.

The final stage in the accession process to the rules-based system is the most difficult.

The participation in multilateral negotiations, in particular those related to concessions on tariffs, demands from Azerbaijan careful and thorough preparations. Experts of Azerbaijan have to identify first of all sectors of national industry and a list of goods that require to be protected by customs tariffs. Secondly, they should identify export-oriented sectors (including agriculture) development of which will allow the Government to receive a stable inflow of foreign currency. It should be noted that in negotiations partners will expect and even demand from Azerbaijan tariff concessions on concrete goods or groups of goods.

The process of identification of average rates of customs levied on imported goods to Azerbaijan is more important and labour-intensive. It is very important to identify the limits of national market liberalization beyond which no further concessions can be made. This process is difficult due to the necessity to take into account the interests of the existing trading partners of Azerbaijan under the various FTAs.

On goods fully meeting market needs, customs rates should be no less than 25 per cent. Goods, import of which doesn't present a threat to domestic producers, could be subject to fixed customs duties between 5 per cent to 20 per cent depending on level of satisfaction of the market by the product.

With regard to agriculture-related products it is necessary to immediately apply tariffication on a wide range of goods, in order to provide effective protection to the domestic agro-industrial sector. Switzerland can be presented as an example in this area. The level of agricultural production in this country is considered to be most developed in the world but nonetheless the rates of customs levies on almost all types of goods do not exceed 100 per cent. For example, customs tariffs in Switzerland in 1997-1998 for dairy products constituted 452 per cent, meat products - 119 per cent, frozen vegetables - 115 per cent.

World practice shows that the regulation of foreign economic activity of a country with the help of effective customs tariffs in combination with other economic methods of regulation, based on norms and principles of the GATT/WTO, creates a regime of fair competition between local enterprises on domestic and foreign markets. Nonetheless, it is important to note that the change in the rates of customs levied by Azerbaijan cannot be applied without coordination

with other CIS countries as demanded by the provisions of agreement on the establishment of a Free Trade Area. But this kind of coordination is made difficult because the Russian Federation is interested in keeping high rates for customs tariffs applied on imports.

There is no hesitation concerning the necessity of abolition of customs tariffs on certain agricultural machines, equipment for meat, dairy and foodstuff industry. Abolition of customs charges on import of these products could lead to technical upgradation of the country. Foreign experience shows that the introduction of new technologies for vegetables growing with drop-watering with dissoluble mineral fertilizers will result in a reduction of failures by 2-3 times, reduction of energy wastes by 18-20 per cent, and a decrease in crop failure by no less than 1.5 times.

Another problem being solved in the process of accession to the WTO is the compliance of national legislation with the provisions of the General Agreement on Trade and Services and other agreements of the WTO. Full participation in the multilateral system of regulation of trade and economic relations requires members to adopt certain commitments that limit, to some extent, the choice of regulation of foreign economic relations, in another words the regulation of foreign economic activity of Azerbaijan can only be regulated by methods not contradicting WTO principles.

Export subsidies remain another area of concern. Problems related to export subsidies present a major challenge to the reforms of the national economy necessiated as a result of the accession process. In this context, it is necessary to modernize subsidizing mechanisms for domestic producers complying with the rules of the multilateral trading system, in particular:

- Prohibition of subsidies, de-jure or de-facto, conditioned by results of export activity of the enterprise;
- Application of subsidies, which don't lead to unfavourable consequences for economic interests of other countries, i.e. don't injure the industry of trade partners of Azerbaijan, don't cancel and don't decrease the advantages gained by other countries in accordance with requirements of GATT/WTO;
- Application of subsidies for industrial research, elaborations (scientific research and experimental-construction works) and support to regions, that are in unfavourable economic condition, for adaptation to new ecological conditions.

Lastly, one of the main conditions set in the WTO Agreements along with “most favoured nations regime” and “national treatment” is “transparency”, i.e. complete disclosure and predictability of national legislation. This would also help FDI. After all, foreign investors having the assurance that their investments will be protected will be undoubtedly be willing to invest in Azerbaijan.

(b) Technical cooperation and skills development

As we may follow best practices of other countries being a member of WTO, technical and financial support to new members, especially developing countries and countries with economies in transition from international organizations play an important role in their accession to the WTO.

Specialists of the United States Agency for International Development (USAID) provided and are still providing significant support, consultative as well as financial, to Kyrgyzstan during its accession to the WTO.

Up to now, no international organization has actually helped Azerbaijan in its accession to the WTO although many talks and negotiations had been held. Meanwhile, there is an urgent need for realization of these kinds of projects.

After the completion of the Memorandum on Foreign Trade Regime of Azerbaijan that was submitted to the WTO Secretariat and in which the TACIS Project has actively participated, work afterwards was carried out in the frame of so-called bridge projects connecting with the three years extended AZPLAC (Azerbaijan Policy and Legal Advice Centre) Project. Nonetheless, implementation of this project has been put off.

It is important to point out the interest of the Centre for Trade Policy and Law (CTPL) of Canada, which is ready to support and help to establish, through and with financial help of the Canadian International Development Agency (CIDA) and Carleton University in Ottawa, a similar Centre in Baku. It is worth to point out that a centre like this has been functioning in Moscow for almost five years, and that a similar Centre was opened in Tbilisi at the end of last year. The Ministry of Commerce of Azerbaijan and CTPL have signed a joint protocol on intentions, identifying all priority directions, but nothing has gone further than just plans.

The Ministry of Commerce itself needs to classify and divide specialists by different directives and agreements of the WTO, in particular with regard to tariff policy, trade in services, agricultural products and subsidies, and also lawyers specialized in international disputes in trade. It is important to point out that there is an urgent need for these kinds of specialists and that technical assistance

programmes should be fully utilized to train specialized experts. Similar programmes are being offered and carried out by those international organizations, that will be or are supporting Azerbaijan in its accession to the WTO, for instance in the incorporation of widely practiced norms of international trade in the relevant legislation of Azerbaijan. Many of those programmes can be carried out with the maximum number of participants from government, private sectors, students and deputies.

Steps in the right direction include the existence of a special course on “International Trade Law and Commercial Diplomacy” in one of the leading universities of the country and the attraction of foreign and local experienced experts. Another important issue which requires attention is the Representation of the Ministry of Commerce of Azerbaijan in the WTO Secretariat in Geneva.

The accession of Azerbaijan to the WTO is an economic as well as a political issue. Ever since independence, Azerbaijan has steered towards integration into the world trading system recognizing the importance of trading with countries. The Government of the country has taken a political decision to accede to the WTO. In these circumstances, the main task of the National (Inter-Ministerial) Working Group and all concerned bodies is to study Agreements of the WTO in depth, as well as the preceding General Agreement on Trade and Tariffs (GATT), and other normative acts and practices formed during many years, which Azerbaijan has failed to adopt due to its relative isolation in the past. Detailed knowledge of the agreements is very important for effective negotiations with countries who are represented by highly qualified specialists and strongly protect their trade interests.

The Programme on development of domestic industry with identification of priority groups and sectors should be worked out within the framework of preparation for accession to the WTO. This will give us a chance to simplify the process of drawing up tariff schedules, and also will enable us some flexibility during the negotiations. With reference to the experiences of other countries, the potential implications of tariff reductions and other commitments for the national budget should be clearly identified.

Lastly, it is necessary to widely disseminate WTO ideas and practices through the mass media and organize round table talks or seminars with the participation of opponents to globalization and WTO.

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C. Georgia⁷⁶

I. Introduction

Despite the political and economic difficulties faced by Georgia in the first few years of regaining independence, which are typical for countries with economies in transition, Georgia has managed to demonstrate to the international community that universal values such as respect for principles of a market economy, pluralistic democracy, and human rights including religious and ethnic tolerance represent Georgia's policy priorities.

Georgia's major achievement, together with economic recovery, is the establishment of close political, economic and cultural relations with its neighbouring countries, and the entire world community at large. Georgia's participation in today's economic globalization and integration helps to guarantee the country's stability and peaceful development, and provide the means through which Georgia will be able to expand its commercial borders and find its own unique place in the family of civilized nations. Georgia's accession to the Council of Europe in 1999 highlighted its strong and irreversible democratic development.

The Government of Georgia believes that countries taking part in the process of globalization must likewise enjoy its benefits. This process should also serve to advance national interests, as well as capitalize upon the unique individuality of each. Thus, global economic integration should accelerate Georgia's economic growth and alleviate poverty.

The aim of Georgia's foreign trade policy is to attract investment and enhance Georgia's viability as an arena for free competition and application and development of the latest scientific achievements and advanced technologies, as well as to develop the county's competitiveness in the international markets.

World Trade Organization (WTO) membership constituted an important step towards Georgia's integration into the world economy. Georgia's acceptance as a member of the WTO is a vivid testimony that our legislative basis is on a par with international standards. The country offers an open civil society, a liberalized market – as evidenced by our WTO membership – a stable macroeconomic environment, progressive legislation and contractual laws to foreign entrepreneurs.

⁷⁶ Based on a paper prepared by H.E. Ms. Tamara Beruchashvili, Deputy Minister of Foreign Affairs, Ministry of Foreign Affairs, Georgia.

This paper was prepared under a project of the United Nations Economic and Social Commission (ESCAP) called: Accession to WTO – Economies in Transition. The principal goal of this paper is to analyze Georgia's WTO accession process in more detail, in particular to highlight positive sides and challenges of membership, identify the main obstacles to gain WTO benefits and ways to overcome them as presented at the Subregional Workshop on Accession to WTO – Economies in Transition, which was held in Tashkent from 25 to 27 July 2001. It is hoped, that lessons learnt from Georgia's experience will be helpful for other countries with economies in transition in the process of their accession.

2. Georgia's accession to the WTO: an evaluation and lessons learnt

(a) Background

Since regaining independence in 1991, Georgia has experienced many problems stemming from political instability, separatist armed conflicts, and problems related to the transition to a free market economy. Coupled with a severe energy crisis, these complications practically devastated the national economy between 1991-1993. Georgia's GDP declined by 44.2 per cent in 1992, 29.3 per cent in 1993 and by 11 per cent in 1994.

It was with the assistance of the World Bank and International Monetary Fund (IMF) that the Anti-Crisis Programme was launched in 1994 under which large-scale economic reforms were initiated. The reforms encompassed the entire range of the economy: restructuring monetary policy and the banking system, acceleration of privatization, price liberalization, transformation of the fiscal system, liberalization of foreign trade, development of a revenue system and an appropriate legal framework, etc. As a result of these reforms, the economic situation dramatically improved within a relatively short period. In the meantime, political stabilization was also achieved and a new constitution was adopted.

The immediate results of the economic reforms and strict monetary policy proved quite impressive indeed. Hyperinflation was stopped and financial stability was attained. In 1995, the monthly inflation rate (which was up to 66 per cent in 1994) was reduced to only 3 per cent. This allowed the introduction of the national currency, the lari, in September 1995. The lari has been quite stable against the US dollar since its introduction.

Successful integration into the international marketplace largely depends on the level of decentralization and liberalization of trade. In close co-operation with the IMF and World Bank the following steps were taken: quotas on export, registration of import and export contracts were abolished; all non-tariff barriers

and restrictions were actually reduced; Only a limited range of goods remained subject to import and export licensing; customs duties on exports were also been abolished.

With active assistance of international experts, the Parliament of Georgia adopted the most important laws governing economic relations. These include the Law on Industrial Enterprise, the Law on the National Bank, the Law on Commercial Banks, the Law on Facilitating and Providing Guarantees for Investment Activities, the Law on Mortgage, the Law on Ownership of Farm Lands, the Law on Monopolies, and the Law on Advertising, Civil Code, Tax Code, the Law on Electric Energy, the Law on Oil and Gas, etc.

These measures have brought about the intensification of Georgia's foreign trade and widened the country's trade geography. Georgia established the legal framework for foreign economic relations with many countries. In April, 1996 the European Union and Georgia signed a bilateral agreement on partnership and cooperation.

A major step in the transition from Soviet Republic to independent, fully democratic state with a free-market economy oriented towards Europe and the West was Georgia's accession to the WTO. In 1994 then Head of State Eduard Shevardnadze called for the creation of a working group on joining the General Agreement on Tariffs and Trade (GATT) and Georgia gained observer status to this Agreement. Following the establishment of the WTO on 1 January 1995 as the permanent successor to the GATT negotiating rounds, accession to the WTO was put on Georgia's foreign trade policy agenda.

Georgia began the accession process having already made a firm decision to embrace the principles of a modern open economy. The country's tariff rates were already quite low. Its economy was already substantially open to foreign investment and to the foreign provisions of services. These facts facilitated the negotiations, which were completed in less than eighteen months from the date of the first Working Party meeting. As the WTO considers how to encourage and help countries now in the accession process, Georgia's example shows that with firm political will and with adequate technical assistance – both of which are necessary – accession can be achieved in a reasonable time period and without compromise of WTO's standards. It should be observed, however, that Georgia's accession process was not too easy (table 32).

Table 32. Chronology of Georgia's accession to the WTO

• 1994	– Georgia gained observer status of GATT;
• 1996 June	– Georgia applied for accession to WTO and received an observer status;
• 1996 July	– The President of Georgia issued a decree, on setting up;
• Governmental Commission	responsible for accession process;
• 1997 March	– the Georgian Government presented a “Memorandum on Foreign Trade Regime”;
• 1998 March 3-4th	– first Working Party meeting;
• 1998 October 6-13th	– second Working Party meeting;
– 16 December 1998	– Completion of the bilateral market access negotiations on trade in goods and services between Georgia and Japan;
• 1999 March 8-11th	– third Working Party meeting;
– 11 March 1999	– Completion of the bilateral market access negotiations on trade in goods and services between Georgia and The Slovak Republic;
– 11 March 1999	– Completion of the bilateral market access negotiations on trade in goods and services between Georgia and The Czech Republic;
– 29 April 1999	– Completion of the bilateral market access negotiations on trade in goods and services between Georgia and Republic of Turkey;
– 29 April 1999	– Completion of the bilateral market access negotiations on trade in goods and services between Georgia and Australia;
– 18 May 1999	– Completion of the bilateral market access negotiations on trade in services between Georgia and Canada;
– 20 may 1999	– Completion of the bilateral market access negotiations on trade in goods between Georgia and United Mexican States;
– 21 May 1999	– Completion of the bilateral market access negotiations on trade in goods between Georgia and Canada 21 May 1999;
– 31 may 1999	– Completion of the bilateral market access negotiations on trade in goods and services between Georgia and commission of the European communities;
– 10 June 1999	– Completion of the bilateral market access negotiations on trade in goods and services between Georgia and Poland;

Table 32. (continued)

– 16 June 1999	– Completion of the bilateral market access negotiations on trade in goods and services between Georgia and India;
– 21 June 1999	– Completion of the bilateral market access negotiations on trade in goods and services between Georgia and Kyrgyzstan;
– 21 June 1999	– Completion of the bilateral market access negotiations on trade in goods between Georgia and Republic of Bulgaria;
– 2 July 1999	– Completion of the bilateral market access negotiations in trade in services between Georgia and Switzerland;
– 11 July 1999	– Completion of the bilateral market access negotiations in trade in goods between Georgia and Switzerland;
• 1999 July 28	– The final working party meeting on Georgia’s Accession to WTO was held;
• 1999 October 6	– “Protocol of Accession to the Marrakech agreement” was signed by the State Minister of Georgia;
• 2000 April 20	– the Parliament of Georgia ratified an agreement on Georgia’s joining to the WTO;
• 2000 June 14	– Georgia became the 137th full member of the WTO.

*(b) Stages of Georgia’s accession to the WTO**(i) Formal application for membership*

In June 1996, Georgia applied for accession to the WTO and in the same month Georgia received observer status. The WTO General Council considered its application and on 18 July 1996 established the Working Party on the Accession of Georgia under the chairmanship of H.E. Ms. E.L. Herfkens (Netherlands).

In order to accelerate the accession process, the President of Georgia issued Decree No. 173 on 16 July 1996 setting up special governmental commission responsible for the accession process under the chairmanship of Mr. M. Ukleba, First Deputy Minister of Foreign Affairs.

(ii) The Memorandum on Foreign Trade Regime

In April 1997 the Georgian Government presented a Memorandum on Foreign Trade Regime, which described existing trade patterns, the current legal and institutional regime governing foreign trade and also provided basic information on the economic system and reform process.

Following the circulation of the memorandum, members of the Working Party were invited to submit questions. In the first stage Georgia received about 400 questions, mainly from the Australia, the European Union, Japan, Switzerland and the United States of America. Georgia sent the WTO secretariat its answers to these questions in September 1997.

In December 1997, a Georgian delegation held preliminary bilateral consultations with some of the organization's key members (Australia, Canada, the European Union, Japan and the United States) at the WTO's headquarters in Geneva. Georgia was invited to submit initial offers for trade in goods and services, which are the basis for bilateral negotiations on market access.

(iii) Negotiations

After submitting Georgia's schedules on concession and commitments on goods and specific commitments on services, the WTO Secretariat decided to organize a first Working Party meeting on 3-4 March 1998. From those dates onwards, the Georgian delegation visited Geneva several times to conduct bilateral and multilateral negotiations.

Bilateral meetings with the European Union, the United States and nine other members of the WTO (Australia, Bulgaria, Canada, Czech Republic, Hungary, Japan, Slovak Republic, Switzerland, and Turkey), were held before and after the full Working Party meeting. During the bilateral meetings members of the WTO take an interest in some part of the Georgian trade regime, for example:

- Japan was interested in the elimination of tariffs on information technology and on pharmaceuticals;
- Hungary asked for a clarification of Georgia's trade relations with the CIS countries. Concerned that a large fraction of Georgian trade was through CIS FTA or Customs Union;
- The European Union was interested in tariff offers, appreciated offers made in general, but regarded anything over 15 per cent as a "tariff peak" that would require justification. They also felt there has not been enough consideration of sectoral initiatives, including the "zero list".⁷⁷ Major sectors with which they were concerned included paper, agricultural equipment, construction equipment, information technology (the "ITA"), furniture, medical equipment, toys, steel, pharmaceuticals and zero tariffs on alcohol.

⁷⁷ Zero List: Sectoral initiatives which require zero rate of import duty.

Both the bilateral and the Working Party meetings went smoothly. A great majority of the questions were handled in bilateral meetings, so that the actual work remaining to be accomplished in the full Working Party meeting was less than anticipated. There appeared to be general recognition that Georgia's accession was on a fast track, although much detailed work remained to be done.

The second round of bilateral negotiations regarding Georgian tariff policy was held in Geneva on 2 May 1998. The third round of bilateral negotiations on the Accession of Georgia to the WTO was held in Geneva on 20-24 July 1998 with nine countries, including the United States and the European Union. The European Union, while recognizing that Georgia had economic problems, was of the opinion that such problems should be handled through transition periods rather than through tariff bindings at unacceptably high levels. The from the European Union request was negotiable, but the final offer had to match the request fairly closely. Georgia had to argue the need for staging periods for sensitive products-it could not expect transition periods across the board. In contrast to tariffs, the European Union services specialist thought the Georgian offer on services was excellent. There was considerable discussion of technical issues, most of which were matters of properly interpreting the instructions properly.

One matter of substance concerned the acceptance of the "Reference paper" on telecommunications. Georgia tabled a very good offer in telecoms, but without acceptance of the reference paper there was little commitment to enforcing openness in telecoms. This was also an issue with the Australian, Canadian, Swiss, and United States delegations.

After the second (on 6-13 October 1998) and third (8-11 March 1999) meetings of the Working Party on the Accession of Georgia to the WTO principal issues requiring resolution including the following demands:

- The United States required:
 - Clarification of regional autonomy and the Abkhazian, Adjarian and Ossetian situation;
 - Clearer statement on intentions with respect to safeguards, and intentions regarding adopting a foreign trade law;
 - Statement on transition period in SPS;
 - Estimate of the approximate amount of imports and exports accounted for by state-owned companies;

- The European Union required:
 - Statement on status of Free Zones;
 - Statement regarding Government Procurement Agreements (GPA) and Entities;
 - Remove staging on Civil Aircraft agreement;
 - Provide updated table of TRIPs compliance;
 - Prepare TRIPs enforcement border measures;
- Australia, the European Union, the Switzerland and the United States all raised the issues of excise and VAT conformity to the WTO rules;
- Japan required a clear statement on custom regulations harmonized with the requirements of the Agreement on Custom Valuation (ACV) as of accession.

After the WP meeting the WTO Secretariat informed the Georgian side that they needed to complete the bilateral negotiations as soon as possible. Table 1 shows the timetable of signing of bilateral protocols between Georgia and member-states.

The final working party meeting on Georgia's Accession to WTO was held on 28 July 1999. The Working Party reviewed the economic policies and foreign trade regime of Georgia and the possible terms of a draft Protocol of Accession to WTO. Having carried out the examination of the foreign trade regime of Georgia and in the light of the explanations, commitments and concessions made by the representatives of Georgia, the Working Party reached the conclusion to invite Georgia to accede to the Marrakesh Agreement Establishing the WTO. For this purpose, the Working Party prepared the draft Decision and Protocol of Accession with Georgia's schedule of Specific Commitments on Services and its Schedule of Concessions and Commitments on Goods that are annexed to the Protocol. The Working Party announced that it had completed its work concerning the negotiations for the accession of Georgia to the Marrakesh Agreement.

All together during Georgia's negotiation process more then 120 meetings took place with more than 30 countries, about 35 new laws and regulations were adopted with the purpose to harmonize Georgian legislation with WTO requirements (table 33). Technical assistance from the European Union, USAID, World Bank, WTO Secretariat and other developed member countries played an important role in the whole accession period.

Table 33. Main trade-related Georgian laws and regulations during the WTO accession process

#	Name of Document	Date of entry in force
1.	Georgian Tax Code	13 June 1997, amended to 8 June 1999
2.	Georgian Law "on Monopolistic Activities and Competition"	25 June 1996
3.	Customs Code of Georgia	14 November 1997, amended on 13 October 1998
4.	Georgian Law "on Customs Tariffs and Duty"	20 March 1998, amended on 2 April 1999
5.	Georgian Law "on Privatization"	30 May 1997, amended to 24 December 1998
6.	Georgian Law on "Promotion and Guarantees of Investment Activity"	12 November 1996, amended to 26 June 1998
7.	Georgian Law "on Customs Fees"	18 February 1998, amended on 28 May 1999
8.	Georgian Law "on Standardization"	25 June 1999
9.	Georgian Law "on Product and Service Certification"	6 September 1996, amended on 30 April 1999
10.	Georgian Law "on Agricultural Quarantine"	15 May 1997
11.	Georgian Law "on Government Procurement"	9 December 1998
12.	Civil Code of Georgia	26 June 1997
13.	Georgian Law "on Trademarks"	5 February 1999
14.	Georgian Law "on Patents"	5 February 1999
15.	Georgian Law "on Protection of Consumer Rights"	20 March 1996
16.	Georgian Law on Insurance	2 May 1997, amended on 30 October 1998
17.	Georgian Law on Audit	7 February 1995, amended on 27 June 1997
18.	Georgian Law on Advertising	18 February 1998
19.	Georgian Law on "Administration and Allocation of State-owned Non-Agricultural Land"	28 October 1998
20.	Georgian Law "on Concessions	21 December 1994
21.	Georgian Law on Entrepreneurs	28 October 1994, amended on 19 February 1999

Table 33. (continued)

22.	Georgian Law “on Copyright and Neighbouring Rights”	22 June 1999
23.	Georgian Law on “Privatization of State-owned Property”	30 May 1997, amended to 24 December 1998
24.	Georgian Law “on Layout Designs of Integrated Circuits”	22 June 1999
25.	Georgian Law “on Border Measures Related to Intellectual Property”	25 June 1999
26.	Presidential Decree “On Measures for the Implementation of Requirements of the Agreement on SPS of the WTO”	2 August 1999
27.	Presidential Decree “On Foreign Trade Responsibilities with respect to the World Trade Organization”	11 July 1999 #433
28.	Presidential Decree “On Measures for the Implementation of Requirements of the Agreement on Technical Barriers to Trade of the WTO”	5 December 1998
29.	Customs State Department Regulation Concerning Determining the Customs Value of Goods Imported to Georgia	4 October 1999
30.	Customs State Department Regulation Concerning Determining the Country of Origin of Goods Imported to Georgia	18 October 1999
31.	Georgian Criminal Code	22 July 1999
32.	General Administrative Code of Georgia	
33.	Georgian Law “on Appellations of Origin and Geographical Indications”	22 June 1999

(iv) General Council Approval

On 6 October 1999, Georgia’s WTO accession negotiations were successfully concluded after the WTO General Council adopted Georgia’s Working Party report and the so-called Protocol of Accession, that was signed by the State Minister of Georgia, Mr. V. Lordkipanidze. He said: We believe that expansion of the multilateral trading system will help to stop economic nationalism and protectionism, give countries a fair foothold on the global trading market, thus contributing to a stable and continued economic growth world-wide. He added: “I am convinced that by assuming their rightful place in the global trading system,

Georgia and other countries in transition will soon see prosperity and stability increase along with their new, expanded activity in the world economic arena”.

At the same meeting, Ms. Anne Anderson (Ireland), chairperson of Georgia’s Working Party, remarked on Georgia’s speedy accession. She said that the rapid pace of this accession process testified to the determination shown by the Georgian authorities to carry through an impressive reform process sustained by a high degree of trade liberalization and full conformity with WTO rules and disciplines. She pointed out that the fact that Georgia had been able to conclude accession negotiations so rapidly and efficiently proved that when supported by constructive dialogue, intensive preparatory work and good will, the WTO accession procedures had worked well.

(v) *Domestic internal procedures*

On 20 April 2000 the Parliament of Georgia ratified the agreement on Georgia’s accession to the WTO and on 14 June 2000 Georgia became the 137th full member of WTO.

The rather long period of time between the signing of the Protocol of Accession and its ratification is explained by a series of objective reasons. After the November 2000 parliamentary elections in Georgia, the new parliament started functioning in late January 2001. The issue of accession to the WTO came under reconsideration at the new parliamentary committees, which witnessed active and aggressive arguments from those opposing the accession idea (mainly representatives of the Party of “Greens” and entrepreneurs). Such “activation” was given an impetus by the “anti-globalization” manifestations during the WTO Ministerial Meeting at Seattle.

The Governmental Commission on WTO Accession and representatives of the Authorities had to work actively with the mass media, parliamentary fractions and opposing forces, to insure that domestic internal procedures were concluded successfully.

(c) *Main obligations and conditions of membership*

As a WTO member, Georgia has to fulfill the obligations and specific commitments that are incorporated in the “Protocol of Accession” document.

During the negotiations, the Georgian delegation was faced with the challenge of balancing the obligations and conditions of membership along with the requirements of WTO and its member states with the economic priorities of

Georgia and interests of domestic producers and, very importantly, Georgian consumers. Georgia assumed the following commitments:

- According to GATT rules, Georgian tariffs were bound at maximum levels (ceilings). As in most of other countries, the bound tariffs are higher in agriculture than in industry (table 34). According to the tariff schedule the bound tariffs agreed with WTO members allow for the possibility that the existing range from 0 to 12 per cent can be extended to 30 per cent, while for alcoholic beverages it is supposed to impose the specific (non-ad valorem) duty.

In case of application of the maximum rate:

- the existing 12 per cent level of weighted average tariff on agricultural products upon Georgia's accession can be increased to 16.5 per cent, and after the transition period will decrease to 15.5 per cent. Tariffs are bound to 25-30 per cent for traditional Georgian products for example wines, bakery foods, juices, canned goods and others.
- The existing 10 per cent level of weighted average tariff on industrial products upon accession will reach 10.1 per cent and after the transitional period will be reduced to 8.2 per cent. In the industrial sector the tariff rate can be increased to 15-20 per cent on cement, bricks, footwear and on some other products of light industry.

At the same time Georgia joined several sectoral initiatives, that requires the unification (in some cases reduction to 0) of custom duties with those of other countries. In the industrial sector it mainly covers the chemical industry, pharmacology industry, ferrous and non-ferrous metals and their goods, agricultural machinery, papermaking. In agricultural sector-oils, fish and fishery products (table 35).

- Georgia's obligations in the services sector have led to a quite liberal trade regime and open the way for foreign investors in virtually all sectors. In order to support domestic activities, there will be a few restrictions on trade in services, especially in the fields of transportation, construction and insurance.

Table 34. Range of Georgia's Bound Tariffs

code (HS 96)	Description	Bound rates at date of accession	Average tariff at date of accession	Final Bound	Final average tariff
1	2	3	4	5	6
01	LIVE ANIMALS	12	12	12	12
02	MEAT AND EDIBLE MEAT OFFAL	12	12	12-10	11.96
03	FISH AND CRUSTACEANS, MOLLUSCS AND OTHER AQUATIC INVERTEBRATES	12	12	0-12	0.4
04	DAIRY PRODUCE; BIRDS' EGGS; NATURAL HONEY; EDIBLE PRODUCTS OF ANIMAL ORIGIN, NOT ELSEWHERE SPECIFIED OR INCLUDED	12-25	16.6	5-25	13.963
05	PRODUCTS OF ANIMAL ORIGIN, NOT ELSEWHERE SPECIFIED OR INCLUDED	12	12	0-12	10.6
06	LIVE TREES AND OTHER PLANTS; BULBS, ROOTS AND THE LIKE; CUT FLOWERS AND ORNAMENTAL FOLIAGE	12	12	12	12
07	EDIBLE VEGETABLES AND CERTAIN ROOTS AND TUBERS	12-17	12.7	10-17	12.6
08	EDIBLE FRUIT AND NUTS; PEEL OF CITRUS FRUIT OR MELONS	12-17	12.98	10-17	12.93
09	COFFEE, TEA, MAT? AND SPICES	12-20	12.5	12-20	12.5
10	CEREALS	12	12	10-12	11.9
11	PRODUCTS OF THE MILLING INDUSTRY; MALT; STARCHES; INULIN; WHEAT GLUTEN	12-20	13.18	10-20	13.12
12	OIL SEEDS AND OLEAGINOUS FRUITS; MISCELLANEOUS GRAINS, SEEDS AND FRUIT; INDUSTRIAL OR MEDICINAL PLANTS; STRAW AND FODDER	12	12	0-12	7.60
13	LAC; GUMS, RESINS AND OTHER VEGETABLE SAPS AND EXTRACTS	12	12	12	12
14	VEGETABLE PLAINTING MATERIALS; VEGETABLE PRODUCTS NOT ELSEWHERE SPECIFIED OR INCLUDED	12	12	12	12
15	ANIMAL OR VEGETABLE FATS AND OILS AND THEIR CLEAVAGE PRODUCTS; PREPARED EDIBLE FATS; ANIMAL OR VEGETABLE WAXES	12	12	0-12	4.4
16	PREPARATIONS OF MEAT, OF FISH OR OF CRUSTACEANS, MOLLUSCS OR OTHER AQUATIC INVERTEBRATES	12	12	0-12	4.6
17	SUGARS AND SUGAR CONFECTIONERY	10-12	11.9	5-12	11.6
18	COCOA AND COCOA PREPARATIONS	12	12	10-12	10.6
19	PREPARATIONS OF CEREALS, FLOUR, STARCH OR MILK; PASTRYCOOKS' PRODUCTS	12-20	17.6	12-20	16.6

Table 34. (continued)

20	PREPARATIONS OF VEGETABLES, FRUIT, NUTS OR OTHER PARTS OF PLANTS	12-30	21.55	10-30	20.5
21	MISCELLANEOUS EDIBLE PREPARATIONS	12-25	17.8	0-25	15.90
22	BEVERAGES, SPIRITS AND VINEGAR	0.2-3 euro/lt		0.2-3 euro/lt	
23	RESIDUES AND WASTE FROM THE FOOD INDUSTRIES; PREPARED ANIMAL FODDER	12	12	0-12	6.4
24	TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES	12-30	24	12-30	24
25	SALT; SULPHUR; EARTHS AND STONE; PLASTERING MATERIALS, LIME AND CEMENT	12-20	13.4	12-20	13.4
26	ORES, SLAG AND ASH	12-15	12.1	12-15	12.1
27	MINERAL FUELS, MINERAL OILS AND PRODUCTS OF THEIR DISTILLATION; BITUMINOUS SUBSTANCES; MINERAL WAXES	12	12	12	12.0
28	INORGANIC CHEMICALS; ORGANIC OR INORGANIC COMPOUNDS OF PRECIOUS METALS, OF RARE-EARTH METALS, OF RADIOACTIVE ELEMENTS OR OF ISOTOPES	12	12	0-12	6.2
29	ORGANIC CHEMICALS	8-12	11.9	0-12	5.7
30	PHARMACEUTICAL PRODUCTS	5	5	0	0.0
31	FERTILISERS	12	12	6.5-10	7.85
32	TANNING OR DYEING EXTRACTS; TANNINS AND THEIR DERIVATIVES; DYES, PIGMENTS AND OTHER COLOURING MATTER; PAINTS AND VARNISHES; PUTTY AND OTHER MASTICS; INKS	12	12	6.5-12	7.7
33	ESSENTIAL OILS AND RESINOIDS; PERFUMERY, COSMETIC OR TOILET PREPARATIONS SOAP, ORGANIC SURFACE-ACTIVE AGENTS, WASHING PREPARATIONS, LUBRICATING PREPARATIONS, ARTIFICIAL WAXES, PREPARED WAXES, POLISHING OR SCOURING PREPARATIONS, CANDLES AND SIMILAR ARTICLE	12	12	6.5	6.5
34	SOAP, ORGANIC SURFACE-ACTIVE AGENTS, WASHING PREPARATIONS, LUBRICATING PREPARATIONS, ARTIFICIAL WAXES, PREPARED WAXES, POLISHING OR SCOURING PREPARATIONS, CANDLES AND SIMILAR ARTICLES, MODELLING PASTES, "DENTAL WAXES" AND DENTAL PREPARATIONS WITH A BASIS	12	12	6.5-12	7.9
35	ALBUMINOIDAL SUBSTANCES; MODIFIED STARCHES; GLUES; ENZYMES	12	12	6.5	6.5
36	EXPLOSIVES; PYROTECHNIC PRODUCTS; MATCHES; PYROPHORIC ALLOYS; CERTAIN COMBUSTIBLE PREPARATIONS	12	12	6.5	6.5

Table 34. (continued)

37	PHOTOGRAPHIC OR CINEMATOGRAPHIC GOODS	12	12	6.5	6.5
38	MISCELLANEOUS CHEMICAL PRODUCTS	5-12	11.6	0-12	6.2
39	PLASTICS AND ARTICLES THEREOF	0-12	11.3	0-12	8.5
40	RUBBER AND ARTICLES THEREOF	0-12	10.9	0-12	8.2
41	RAW HIDES AND SKINS (OTHER THAN FURSKINS) AND LEATHER	12-15	12.8	12-15	12.8
42	ARTICLES OF LEATHER; SADDLERY AND HARNESS; TRAVEL GOODS, HANDBAGS AND SIMILAR CONTAINERS; ARTICLES OF ANIMAL GUT (OTHER THAN SILK-WORM GUT)	12	12	0-12	11.5
43	FURSKINS AND ARTIFICIAL FUR; MANUFACTURES THEREOF	12	12	12	12
44	WOOD AND ARTICLES OF WOOD; WOOD CHARCOAL	12	12	5-12	11.4
45	CORK AND ARTICLES OF CORK	0-12	10.7	0-12	10.7
46	MANUFACTURES OF STRAW, OF ESPARTO OR OF OTHER PLAITING MATERIALS; BASKETWARE AND WICKERWORK	12	12	12	12
47	PULP OF WOOD OR OF OTHER FIBROUS CELLULOSIC MATERIAL; RECOVERED (WASTE AND SCRAP) PAPER AND PAPERBOARD	5-12	11.7	0	0
48	PAPER AND PAPERBOARD; ARTICLES OF PAPER PULP, OF PAPER OR OF PAPERBOARD	0-12	11.9	0	0
49	PRINTED BOOKS, NEWSPAPERS, PICTURES AND OTHER PRODUCTS OF THE PRINTING INDUSTRY; MANUSCRIPTS, TYPESCRIPTS AND PLANS	12	12	0	0
50	SILK	12	12	4-12	10.4
51	WOOL, FINE OR COARSE ANIMAL HAIR; HORSEHAIR YARN AND WOVEN FABRIC	4-12	10.2	0-12	6.3
52	COTTON	5-12	11.9	4-12	7.0
53	OTHER VEGETABLE TEXTILE FIBRES; PAPER YARN AND WOVEN FABRICS OF PAPER YARN	12	12	4-12	6.5
54	MAN-MADE FILAMENTS	5-12	10.3	4-10	6.8
55	MAN-MADE STAPLE FIBRES	12	12	4-8	6.4
56	WADDING, FELT AND NONWOVENS; SPECIAL YARNS; TWINE, CORDAGE, ROPES AND CABLES AND ARTICLES THEREOF	12	12	4-12	9.9
57	CARPETS AND OTHER TEXTILE FLOOR COVERINGS	12	12	8-12	11.7
58	SPECIAL WOVEN FABRICS; TUFTED TEXTILE FABRICS; LACE; TAPESTRIES; TRIMMINGS; EMBROIDERY	12	12	8-12	9.9

Table 34. (continued)

59	IMPREGNATED, COATED, COVERED OR LAMINATED TEXTILE FABRICS; TEXTILE ARTICLES OF A KIND SUITABLE FOR INDUSTRIAL USE	12	12	8	8
60	KNITTED OR CROCHETED FABRICS	12-15	13.8	8-12	10.4
61	ARTICLES OF APPAREL AND CLOTHING ACCESSORIES, KNITTED OR CROCHETED	12-15	13.4	7-15	13.2
62	ARTICLES OF APPAREL AND CLOTHING ACCESSORIES, NOT KNITTED OR CROCHETED	12-15	12.5	6-12	11.9
63	OTHER MADE UP TEXTILE ARTICLES; SETS; WORN CLOTHING AND WORN TEXTIL ARTICLES; RAGS	12-15	12.15	10-12	11.97
64	FOOTWEAR, GAITERS AND THE LIKE; PARTS OF SUCH ARTICLES	12-20	16.1	8-12	10.6
65	HEADGEAR AND PARTS THEREOF	12	12	12	12
66	UMBRELLAS, SUN UMBRELLAS, WALKING-STICKS, SEAT-STICKS, WHIPS, RIDING-CROPS AND PARTS THEREOF	12	12	12	12
67	PREPARED FEATHERS AND DOWN AND ARTICLES MADE OF FEATHERS OR OF DOWN; ARTIFICIAL FLOWERS; ARTICLES OF HUMAN HAIR	12	12	12	12
68	ARTICLES OF STONE, PLASTER, CEMENT, ASBESTOS, MICA OR SIMILAR MATERIALS	0-12	11.3	0-12	10.7
69	CERAMIC PRODUCTS	12	12	10-12	11.6
70	GLASS AND GLASSWARE	0-12	11.8	0-12	11.6
71	NATURAL OR CULTURED PEARLS, PRECIOUS OR SEMI-PRECIOUS STONES, PRECIOUS METALS, METALS CLAD WITH PRECIOUS METAL, AND ARTICLES THEREOF; IMITATION JEWELLERY; COIN	12	12	12	12
72	IRON AND STEEL	5-12	10.8	0-12	0.2
73	ARTICLES OF IRON OR STEEL	0-12	10.8	0-12	8.5
74	COPPER AND ARTICLES THEREOF	0-12	11.2	0-12	0.4
75	NICKEL AND ARTICLES THEREOF	12	12	0	0
76	ALUMINIUM AND ARTICLES THEREOF	0-12	10.7	0-5	0.5
78	LEAD AND ARTICLES THEREOF	12	12	5	5
79	ZINC AND ARTICLES THEREOF	12	12	5	5
80	TIN AND ARTICLES THEREOF	12	12	5	5
81	OTHER BASE METALS; CERMETS; ARTICLES THEREOF	0-12	11.7	0-5	4.9
82	TOOLS, IMPLEMENTS, CUTLERY, SPOONS AND FORKS, OF BASE METAL; PARTS THEREOF OF BASE METAL	12	12	5	5
83	MISCELLANEOUS ARTICLES OF BASE METAL	0-12	10	0-12	8.1

Table 34. (continued)

84	NUCLEAR REACTORS, BOILERS, MACHINERY AND MECHANICAL APPLIANCES; PARTS THEREOF	0-5	4.2	0-5	2.3
85	ELECTRICAL MACHINERY AND EQUIPMENT AND PARTS THEREOF; SOUND RECORDERS AND REPRODUCERS, TELEVISION IMAGE AND SOUND RECORDERS AND REPRODUCERS, AND PARTS AND ACCESSORIES OF SUCH ARTICLES	0-5	3.4	0-5	2
86	RAILWAY OR TRAMWAY LOCOMOTIVES, ROLLING-STOCK AND PARTS THEREOF; RAILWAY OR TRAMWAY TRACK FIXTURES AND FITTINGS AND PARTS THEREOF; MECHANICAL (INCLUDING ELECTRO-MECHANICAL) TRAFFIC SIGNALLING EQUIPMENT OF ALL KINDS	12	12	12	12
87	VEHICLES OTHER THAN RAILWAY OR TRAMWAY ROLLING-STOCK, AND PARTS AND ACCESSORIES THEREOF	5-12	11.7	0-12	9.6
88	AIRCRAFT, SPACECRAFT, AND PARTS THEREOF	0-12	7.35	0-12	7.35
89	SHIPS, BOATS AND FLOATING STRUCTURES	12	12	12	12
90	OPTICAL, PHOTOGRAPHIC, CINEMATOGRAPHIC, MEASURING, CHECKING, PRECISION, MEDICAL OR SURGICAL INSTRUMENTS AND APPARATUS; PARTS AND ACCESSORIES THEREOF	0-5	3.8	0-5	1.9
91	CLOCKS AND WATCHES AND PARTS THEREOF	0-12	11.8	0-12	11.4
92	MUSICAL INSTRUMENTS; PARTS AND ACCESSORIES OF SUCH ARTICLES	12	12	12	12
93	ARMS AND AMMUNITION; PARTS AND ACCESSORIES THEREOF	12	12	12	12
94	FURNITURE; BEDDING, MATTRESSES, MATTRESS SUPPORTS, CUSHIONS AND SIMILAR STUFFED FURNISHINGS; LAMPS AND LIGHTING FITTINGS, NOT ELSEWHERE SPECIFIED OR INCLUDED; ILLUMINATED SIGNS, ILLUMINATED NAME-PLATES AND THE LIKE; PREFABRICATED BUILDINGS	0-12	10.4	0-12	4.7
95	TOYS, GAMES AND SPORTS REQUISITES; PARTS AND ACCESSORIES THEREOF	12	12	0-12	6.1
96	MISCELLANEOUS MANUFACTURED ARTICLES	12	12	12	12
97	WORKS OF ART, COLLECTORS' PIECES AND ANTIQUES	12	12	12	12

Table 35. Sectoral Initiatives

#	Description	Yes/No
1	Agricultural Equipment	+
2	Chemicals Harmonization	+
3	Beer	-
4	Civil Aircraft	+
5	Construction Equipment	+
6	Distilled Spirits	-
7	Fish and Fish Products	+
8	Furniture	+
9	Medical Equipment	+
10	Non-Ferrous Metals	+
11	Oilseeds and Oilseed Products	+
12	Paper	+
13	Pharmaceuticals	+
14	Scientific Equipment	+
15	Steel	+
16	Textile Harmonization	+

In addition, Georgia has undertaken a number of obligations in various other areas, including:

- The privatization programme of Georgia must be transparent and information on the state of reforms and changes in economic policy, including the trade regime, must be provided to WTO members.
- From the day of accession, Georgia cannot introduce or apply quantitative restrictions on imports or other non-tariff measures such as, for instance, import licensing, that will not comply with provisions of the WTO Agreements.
- For customs valuation, Georgia will fully apply WTO provisions without any transition period.
- Georgia will ensure that the operations of pre-shipment inspection (PSI) entities are fully consistent with the relevant WTO Agreements. The pre-shipment fee structure will be brought into full compliance with GATT Article VIII.
- Georgia will not use anti-dumping, countervailing or safeguard measures until it has notified and implemented appropriate laws in conformity with WTO rules.

- Georgia will not maintain any subsidies, including export subsidies, which are prohibited by WTO rules.
- Georgia intends to comply with the provisions of the TBT agreement upon accession. In that respect, Georgia's standards, technical regulations and conformity assessment procedures after a three year transitional period will be based on international experience.
- Georgia will also join the Agreement on Trade in Civil Aircraft upon accession and will start negotiations for joining the Agreement on government procurement.

(d) *Analysis of the impact from the accession to the WTO*

The Government of Georgia considers the following advantages of WTO membership:

- It gives Georgia global credibility;
- It encourages foreign investors, adding transparency and security;
- It opens world markets to Georgian products at preferential tariffs;
- It orientates Georgia to the West (consequent geo-political advantages);
- It opens a possible route to eventual European Union membership;
- It benefits the consumers, who can choose from more goods at cheaper prices.

The benefits listed above are very important, but there are also disadvantages:

- Local markets risk being flooded with imports;
- Local products will find it hard to break into saturated world markets;
- Local firms will be unable to compete at home and abroad;
- General antipathy among local producers could hamper prospects.

The growth and development experiences of many developing and transition countries underline the critical importance of outward-oriented trade policies within the context of the global economy. Nowadays it can be noted that Georgia's accession to WTO was followed by immediate positive results in the improvement of the country's foreign trade regime:

- After Georgia's accession to the WTO in June 2000, the European Union adopted a decision that it will no longer consider Georgia as a

non-market economy country, which means relieve of some restrictions to foreign trade with Georgia;

- On 29 December 2000 the President of the United States of America, Mr. Bill Clinton entered into force the law, which waived the Jackson-Vanik amendment for Georgia and granted Georgian products MFN treatment on the United States of America market;
- On 29 June 2001 the President of the United States of America, Mr. George W. Bush took the decision to include Georgia into the list of United States of America GSP beneficiary countries;
- Currently, Georgia is using the advantages as a full member of the WTO, and has started bilateral negotiations with acceding countries to improve access of Georgian goods and services to their markets. Georgia has already held negotiations with Kazakhstan, Moldova, the Russian Federation, Ukraine, and other CIS countries, during which the importance of maintaining and developing free trade with these countries, after accession to the WTO, was particularly stressed. During the negotiations with CIS countries, the Georgian delegation always stresses its positive attitude towards CIS countries' accession to WTO in the short term, as membership would require the Georgia's main trading partners to harmonize their trade policy with international rules and would make these policies more transparent and predictable.

Georgia understands that the acceptance of WTO norms and requirements doesn't mean immediate benefit from its membership. Georgia must work hard if this is to be a success. This means a dynamic approach on all sides, from educating local producers and local capacity building to attracting support from foreign governments to help smooth over past-accession adjustments. After accession to the WTO, the legislative and organizational activities connected to WTO membership in Georgia are actively continuing:

- A new revision of the law on "Government Procurement" was adopted;
- The draft Law on Trade Remedies was submitted to Georgian Parliament;
- A number of notifications (on import licensing procedures, free trade agreements, the implementation of privatization program and others) were submitted to WTO Secretariat;
- In June 2001 the Council for TRIPs considered the legislation connected intellectual property and the conditions of executive mechanisms in Georgia;

- The regional seminars for South-Caucasian countries on Accession to WTO and Standardization Issues, and seminar for Black Sea Economic Cooperation (BSEC) countries on WTO negotiations simulations were held in Tbilisi;
- The Project “Center for Trade Policy and Law”, which aimed to assist Georgia in its initial stage of membership of WTO in developing relations with WTO, is operating with the support of the Canadian Government;
- Georgia has joined a number of initiatives of developing and transitional countries in the agricultural sector, which will be presented at the WTO Fourth Ministerial Conference in Doha (9-13 November 2001) and at the possible new round of negotiations.

(e) *Lessons and recommendation for acceding countries*

On the basis of Georgia’s experiences with the negotiations with WTO, the following conclusions can be made:

- Close cooperation between the Executive and Legal Authorities inside the country should be maintained prior and during the accession process;
- Tariff policy should be elaborated at the earliest possible date, since the bilateral negotiations on the “bound tariffs” present a labour-intensive and complicated process and require the coordinated action of various ministries and departments;
- The elaborated tariff policy has to be coordinated with the International Monetary Fund (IMF), to avoid contradictions between its recommendations and possible changes of tariffs, agreed with WTO;
- Assistance of international organizations and donor countries are crucial to ensure successful negotiations;
- The experiences of other countries in the field of accession to WTO should be actively studied;
- Acceding countries should cooperate closely with the WTO Secretariat and organize a special mission in Geneva;
- Acceding countries should set up a working group of specialists on WTO issues (possibly within the framework of a special project).

- Preparation of WTO documents in the national language must be started at the initial stage of accession with donors' assistance;
- Along with the issues of tariff policy, special attention should be given to the trade in services, since the commitments in this area are expected to have great implications in the long-term;
- The creation of information centers on standardization, sanitary and phyto-sanitary measures and service trade within the existing structure of ministries and state budget should be considered;
- Countries with economies in transition should consistently and continuously strive to harmonize their commitments and procedures and present them in a better form within the framework of WTO;
- Measures should be taken starting in the initial stage of the accession process to ensure technical assistance to provide support for post-accession period.

3. Overview of trade policy before and after WTO accession

(a) General trends in trade and main changes in trade regulation caused by accession to the WTO

The principles of Georgian foreign trade provide that a country in transition like Georgia requires an open market with free competition and participation in the economic globalization process. As a result, the Government has implemented substantive reforms of the foreign trade regime with the following results: The quota system has been abolished in Georgia; export restrictions are applied to only two groups of goods (museum pieces, pieces of art and antique; and forestry products); the list of goods subject to licensing has been reduced to 4 items from 26 groups in 1993 (including more than 150 separate items); obligatory registration of foreign economic contracts has been abolished; there is no longer customs duties on export goods; raw materials intended for manufacturing of export production are exempt from customs duties, VAT and excise; import of equipment and machines is exempt from VAT and subject to a 5 per cent cut in customs duty. It should be pointed out that the last measure has served to increase the share of equipment, machines and technologies in the structure of import. Naturally, this positive tendency will improve competitiveness of Georgian products; overall collection from customs service has been reduced from 0.3 per cent to 0.15 per cent and limited to minimum 50 lari and maximum 2000 lari; In accordance with WTO rules excise rates for domestic and similar imported goods have been made equal.

Concerning development of trade and export promotion, Georgia has achieved beneficial trade relations with principal partner countries based on bilateral and multilateral agreements. It should be noted that Georgia signed agreement on trade and economic cooperation with 22 countries, and agreements on free trade with 8 CIS countries (Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Turkmenistan, Ukraine, and Uzbekistan) (table 36).

Table 36. Free Trade Agreements

	Country	Data of Signature	Status
1	Russian Federation	1994 year 3 February	In force since 10.05.1994
2	Armenia	1995 year 14 August	In force since 11.11.1998
3	Azerbaijan	1996 year 3 March	In force since 10.07.1996
4	Ukraine	1995 year 9 January	In force since 4.06.1996
5	Moldova	1997 year 5 December	Not in Force
6	Turkmenistan	1996 year 20 March	In force since 1.01.2000
7	Uzbekistan	1995 year 4 September	Not in Force
8	Kazakhstan	1997 year 11-12 November	In force since 16.07.1999
9	Multilateral Agreement with CIS	1994 year 15 April	Temporary in force since 15.04.1995

The agreement on Partnership and Cooperation (PCA) concluded between Georgia and the European Union is the broadest and richest in content among all other agreements which Georgia has with any other country or international organization. Actually, the agreement covers all the sectors of the Georgian economy.

Taking in account the significant steps made by Georgia towards transition to a market-oriented economy, the European Union concluded the Agreement on Exemption from Quotas of Exported Textile Production from Georgia on 17 November 1993 which was prolonged to 1 January 2003. This certainly stimulates exports of Georgian light industrial goods to European markets. Canada, the Czech Republic, European Union, Japan, Slovak Republic, Switzerland, and the United States have granted Georgia GSP status. This makes it easier for goods manufactured in Georgia to reach the markets of European countries, increases the competitiveness of Georgian goods and helps the country to develop its export capabilities.

The implementation of an export control system will be one of the priorities of the future development of Georgia's trade policy. Prior to the adoption of the Law on Export Control of Weapons, Military Technology and Double Purpose Goods, the experiences of developed countries and the ones with transition economy

in this area have been studied. After Georgia will have implemented and fully activated a modern system of export control, Georgia's role as one of the principal transit countries in the Europe-Asia transportation corridor will be significantly improved. In this connection it is necessary to prepare bilateral and multilateral agreements on regional cooperation.

As a result of the positive changes in the Georgian economy achieved during the last few years, trade relations of the country have been widened. Georgia has been carrying out trade operations with 111 countries.

During Georgia's accession to WTO Georgia's foreign trade structure experienced important changes. Along with other factors, this was also the result of changes implemented as part of the accession process in foreign trade regulation system. There is also no doubt that the progress achieved in the accession process enhanced the trust of partner countries' representatives towards Georgia, and was a positive factor for trade development.

Table 37 shows that foreign trade turnover has grown despite a series of global crises. Foreign trade turnover amounted to US\$ 885.5 million in 1996, and US\$ 1,030.1 million in 2000 i.e. increased by 16.3 per cent during that period. During the same period, exports increased from US\$ 198.8 million to US\$ 329.9 million, i.e. by 65.9 per cent, while imports increased from US\$ 686.7 million to US\$ 700.2 million, or by 2 per cent. Correspondingly, the ratio of import coverage by export increased from 28.9 per cent to 47.1 per cent.

Important changes have also taken place in the direction of trade flows. In particular, the share of trade with WTO members, including European Union countries increased in total turnover. The share of trade with WTO members and European Union members accounted for resp. 45.9 per cent and 21.5 per cent of total turnover in 1996 and 62.5 per cent and 21.4 per cent in 2000. In addition, export quotas in total export increased from 27.4 per cent to 55.2 per cent for WTO member countries and grew from 8.5 per cent to 21.3 per cent for European Union countries.

In addition, there have been significant changes in the export-import commodity structure (table 38). A decrease in agricultural production is evident in import both in absolute and relative terms, while the import of machinery (groups 84, 85, 87) has drastically increased. This reflects the growth of industrial activity that has not yet been reflected by a concomitant increment in budget revenues and indicates the significance of the shadow economy. Import of pharmaceutical products has also significantly increased which can be explained by the growth in purchasing power of the population and by improvements in import regulation procedures. Oil imports were partially replaced by natural gas

Table 37. General trends in foreign trade**1996**

		Turnover	Import	Export	EX/IM per cent
Total, mln.USD		855.6	686.8	198.8	28.9
WTO members	mln. USD	406.9	352.5	54.4	15.4
	percentage of total	45.9	51.3	27.4	
Non-WTO countries	mln. USD	448.7	334.3	144.4	43.2
	percentage of total	52.4	48.7	72.6	
BSEC	mln. USD	548.2	400.0	148.2	37.1
	percentage of total	64.1	58.2	74.5	
European Union	mln. USD	183.7	166.9	16.8	10.1
	percentage of total	21.5	24.3	8.5	
CIS	mln. USD	398.9	270.4	128.5	47.5
	percentage of total	46.6	39.4	64.6	
Non-CIS	mln. USD	456.7	416.4	70.3	16.9
	percentage of total	53.4	60.6	35.4	
OECD	mln. USD	335.0	283.6	51.4	18.1
	percentage of total	39.2	41.3	25.9	

2000

		Turnover	Import	Export	EX/IM per cent
Total, mln.USD		1 030.1	700.2	329.9	47.1
WTO members	mln. USD	643.7	461.6	182.1	39.4
	percentage of total	62.5	65.9	55.2	
Non-WTO countries	mln. USD	386.4	238.6	147.8	61.9
	percentage of total	37.5	34.1	44.8	
BSEC	mln. USD	552.5	345.8	206.7	59.8
	percentage of total	53.6	49.4	62.7	
European Union	mln. USD	220.7	150.3	70.4	46.8
	percentage of total	21.4	21.5	21.3	
CIS	mln. USD	357.8	221.6	136.2	61.5
	percentage of total	34.7	31.6	41.3	
Non-CIS	mln. USD	672.30	478.60	193.70	40.5
	percentage of total	65.3	68.4	58.7	
OECD	mln. USD	491.1	324.3	166.8	51.4
	percentage of total	47.7	46.3	50.6	

Source: State Department of Social Economic Information.

Table 38. Main Georgian imports 1996-2000

HS code	Products	1996		2000	
		mln. USD	per cent	mln. USD	per cent
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter:	0.9	0.1	1.01	0.1
0405	Butter and other fats and oils derived from milk; dairy spreads:	4.0	0.6	2.9	0.4
0407	Birds' eggs	2.6	0.4	2.2	0.3
0901	Coffee, whether or not roasted or decaffeinated	11.7	1.7	4.3	0.6
1001	Wheat and meslin	63.7	9.3	28.5	4.1
1101	Wheat or meslin flour	50.9	7.4	25.1	3.9
15	Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes	6.5	1.0	5.8	0.8
1701	Cane or beet sugar and chemically pure sucrose, in solid form	33.4	4.9	22.3	3.2
2203 2208	alcoholic beverages	11.5	1.7	2.7	0.4
24	Tobacco and manufactured tobacco substitutes	30.9	4.5	29.3	4.2
2710	Petroleum oils and oils obtained from bituminous minerals, other than crude;	163.6	23.3	68.9	9.8
2711	Petroleum gases and other gaseous hydrocarbons		–	48.4	6.9
30	Pharmaceutical products	16.0	2.3	45.7	6.5
84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof	24.2	3.5	54.6	7.8
8527- 8528	Reception apparatus for radio-telephony, radio-telegraphy or radio-broadcasting and Reception apparatus for television	–	–	17.1	2.4
8544	Insulated (including enamelled or anodized) wire, cable (including co-axial cable) and other insulated electric conductors	–	–	14.8	2.1
8703	Motor cars and other motor vehicles	–	–	19.2	2.7

and their aggregate import was reduced. In this context, it should be pointed out that on the one hand there has been an increase in oil extraction and in hydro-electric power generation as well as a reduction in transit and re-exports that were irregularly registered in previous years. On the other hand, there is a significant share of smuggling which cannot be excluded. In addition, it should be noted that Bulgaria and Romania were replaced by Germany and Switzerland among the top 10 trading partners (table 40).

Significant growth of exports (table 39) can also be observed in the agricultural sector (nuts, alcoholic beverage, mineral waters, tea), where the value of exported goods increased from US\$ 21.5 million to US\$ 77.0 million, i.e. 3.6 times. Export of scrap-iron increased particularly, after an imposed export duty on 26 June 1998 was removed on 20 July 1999.

Of course, the above-mentioned trends are results of multiple internal and external factors, but reforms related to the process of accession to WTO and activation of relations with member countries are important among them.

(b) *Present trade regime*

(i) *Economic policies*

a. *Monetary and fiscal policy*

The National Bank of Georgia is responsible for the design and implementation of monetary policy. The National Bank was established in 1991, and the final version of the Law on National Bank was approved in June 1995. In practice, the National Bank works closely with the Ministry of Finance as monetary and fiscal policies are closely linked.

Georgia's fiscal policy aims at boosting revenue to a level required to finance most current government expenditures, while mainly relying on external sources for capital outlays. Georgia has strengthened its tax and customs administration to improve revenue performance, and maintains a restrained expenditure program with emphasis on health and education. The principal taxes levied in Georgia are value added tax; profit tax; income tax; a fixed tax on small enterprises; excises; customs duty; social security levy, medical tax and employment fund tax levied on enterprises and employees; property tax; and agricultural and urban land tax. Local administrations can levy taxes within the framework of national legislation (Article 6.3 of the Georgian Tax Code) on entrepreneurial activities, gambling business, health resorts, hotels, advertising, car parking, and on the use of local symbols. Local administrative bodies of Georgia have no right to impose any other kind of taxes.

Table 39. Main Georgian exports 1996-2000

HS	Products	1996		2000	
		mln. USD	per cent	mln. USD	per cent
0802	Other nuts, fresh or dried, whether or not shelled or peeled	–	–	22.3	6.8
0805	Citrus fruit, fresh or dried:	8.2	4.1	2.5	0.8
0902	Tea, whether or not flavored	1.7	0.9	6.8	2.1
2201	Waters, including mineral waters and aerated	5.0	2.5	12.8	3.9
2202	waters, and other non-alcoholic beverages, not including fruit or vegetable juices of heading No. 2009:				
2203	Alcoholic beverages	6.6	3.3	32.6	9.9
2208					
2602	Manganese ores and concentrates	–	–	11.8	3.4
2603	Copper ores and concentrates	13.4	6.4	10.1	3.1
2616	Precious metal ores and concentrates	–	–	14.9	4.5
2709	Petroleum oils and oils obtained from bituminous minerals, crude	6.7	3.4	11.6	3.5
2710	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	17.4	8.8	6.3	1.9
28	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes	5.4	2.7	5.5	1.7
31	Fertilizers	11.9	6.0	15.4	4.7
72	Iron and steel	11.7	5.9	52.5	15.9
73	Articles of iron or steel	17.0	8.6	3.3	1.0
7602	Aluminum waste and scrap	–	–	12.7	3.9
85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles	4.3	2.2	4.4	1.3

Source: State Department of Social Economic Information.

Table 40. Foreign trade balance of Georgia with 10 most important trading partner countries**1996**

(mln. USD)

#	Countries	Turn.	per cent	Exp.	per cent	Imp.	per cent	Bal.	per cent
	Total	885.5	100	198.8	100	686.7	100	-487.9	100
1	Russian Federation	171.1	19.3	56.8	28.6	114.3	16.6	-57.5	11.8
2	Turkey	98.4	11.1	25.9	13.0	72.5	10.6	-46.6	9.6
3	Azerbaijan	96.0	10.8	24.8	12.5	71.2	10.4	-46.4	9.5
4	Bulgaria	50.7	5.7	12.2	6.1	38.5	5.6	-26.3	5.4
5	United States	44.8	5.1	1.4	0.7	43.5	6.3	-42.1	8.6
6	Ukraine	40.3	4.6	5.4	2.7	34.9	5.1	-29.5	6.0
7	United Kingdom	39.3	4.4	8.4	4.2	30.9	4.5	-22.5	4.6
8	Romania	38.8	4.4	2.1	1.1	36.7	5.3	-34.6	7.1
9	Armenia	36.2	4.1	20.5	10.3	15.7	2.3	4.8	1.0
10	Italy	31.4	3.5	1.7	0.9	29.7	4.3	-28.0	5.7
	total with 10 main partner countries:	647.0	73.1	159.2	80.1	487.9	71.0	-328.7	67.4

1997

(mln. USD)

#	Countries	Turn.	per cent	Exp.	per cent	Imp.	per cent	Bal.	per cent
	Total	1 160.8	100	230.1	100	930.7	100	-700.6	100
1	Russian Federation	193.6	16.7	68.6	29.8	125.0	13.4	-56.4	8.1
2	Turkey	144.0	12.4	30.0	13.0	114.0	12.2	-84.0	12.0
3	Azerbaijan	140.6	12.1	25.1	10.9	115.5	12.4	-90.4	12.9
4	United States	74.4	6.4	4.2	1.8	70.2	7.5	-66.0	9.4
5	Ukraine	63.9	5.5	8.4	3.7	55.5	6.0	-47.1	6.7
6	Bulgaria	54.8	4.7	8.7	3.8	46.1	5.0	-37.4	5.3
7	Virgin Islands	53.2	4.6	0.4	0.2	52.8	5.7	-52.4	7.5
8	Italy	46.3	4.0	5.1	2.2	41.2	4.4	-36.1	5.2
9	United Kingdom	46.1	4.0	4.2	1.8	41.9	4.5	-37.7	5.4
10	Germany	45.8	3.9	5.9	2.6	39.9	4.3	-34.0	4.9
	Total with 10 main partner countries:	862.7	74.3	160.6	69.8	702.1	75.4	-541.5	77.3

1998

(mln. USD)

#	Countries	Turn.	per cent	Exp.	per cent	Imp.	per cent	Bal.	per cent
	Total	1 073.1	100	189.9	100	883.2	100	-693.3	100
1	Russian Federation	265.4	24.7	54.2	28.5	211.2	23.9	-157.0	22.6
2	Turkey	140.6	13.1	24.1	12.7	116.5	13.2	-92.4	13.3
3	Azerbaijan	109.0	10.2	18.3	9.6	90.7	10.3	-72.4	10.4
4	Germany	96.9	9.0	12.4	6.5	84.5	9.6	-72.1	10.4
5	United States	84.4	7.9	10.8	5.7	73.6	8.3	-62.8	9.1
6	United Kingdom	76.3	7.1	1.1	0.6	75.2	8.5	-74.1	10.7
7	Ukraine	40.5	3.8	6.5	3.4	34.0	3.8	-27.5	4.0
8	Switzerland	39.9	3.7	5.4	2.8	34.5	3.9	-29.1	4.2
9	Italy	39.1	3.6	9.0	4.7	30.1	3.4	-21.1	3.0
10	Bulgaria	34.0	3.2	3.1	1.6	30.9	3.5	-27.8	4.0
	Total with 10 main partner countries:	926.1	86.3	144.9	76.3	781.2	88.5	-636.3	91.8

1999

(mln. USD)

#	Countries	Turn.	per cent	Exp.	per cent	Imp.	per cent	Bal.	per cent
	Total	863.3	100	240.7	100	622.6	100	-381.8	100
1	Russian Federation	172.5	20.0	45.6	18.9	126.9	20.4	-81.3	21.3
2	Turkey	112.0	13.0	37.8	15.7	74.2	11.9	-36.4	9.5
3	United States	83.9	9.7	10.0	4.2	73.9	11.9	-63.9	16.7
4	Germany	69.4	8.0	24.7	10.3	44.7	7.2	-20.0	5.2
5	Azerbaijan	61.7	7.1	19.6	8.1	42.1	6.8	-22.5	5.9
6	Ukraine	37.6	4.4	10.3	4.3	27.3	4.4	-17.0	4.5
7	Turkmenistan	35.5	4.1	12.9	5.4	22.6	3.6	-9.7	2.5
8	Armenia	29.0	3.4	15.0	6.2	14.0	2.2	1.0	0.3
9	United Kingdom	26.6	3.1	4.1	1.7	22.5	3.6	-18.4	4.8
10	Italy	23.9	2.8	10.8	4.5	13.1	2.1	-2.3	0.6
	Total with 10 main partner countries:	652.1	75.5	190.8	79.3	461.3	74.1	-270.5	70.8

2000

(mln. USD)

#	Countries	Turn.	per cent	Exp.	per cent	Imp.	per cent	Bal.	per cent
	Total	1 030.1	100	329.9	100	700.2	100	-370.3	100
1	Turkey	182.2	17.7	73.6	22.3	108.6	15.5	-35.0	9.5
2	Russian Federation	162.0	15.7	68.1	20.6	93.9	13.4	-25.8	7.0
3	Germany	86.9	8.4	30.9	9.4	56.0	8.0	-25.1	6.8
4	Azerbaijan	76.2	7.4	21.1	6.4	55.1	7.9	-34.0	9.2
5	United States	77.3	7.5	6.4	1.9	70.9	10.1	-64.5	17.4
6	Ukraine	57.2	5.6	19.5	5.9	37.7	5.4	-18.2	4.9
7	Switzerland	35.8	3.5	13.5	4.1	22.3	3.2	-8.8	2.4
8	United Kingdom	33.7	3.3	10.4	3.2	23.3	3.3	-12.9	3.5
9	Italy	33.4	3.2	11.6	3.5	21.8	3.1	-10.2	2.8
10	Armenia	27.5	2.7	13.5	4.1	14.0	2.0	-0.5	0.1
	Total with 10 main partner countries:	772.2	75.0	268.6	81.4	503.6	71.9	-235.0	63.5

Source: State Department of Social Economic Information.

b. Foreign exchange and payments

The national currency – the lari – is traded on the Tbilisi Interbank Currency Exchange (TICEX) as well as in the Foreign Exchange Bureau Market (FXB). TICEX functions as a wholesale market for foreign exchange between banks, while large volumes of small retail transactions are carried out in the FXB. The Government's exchange rate policy is based on "managed float". No fixed target is set for the exchange rate of the lari, but the National Bank of Georgia can intervene in the TICEX auction market as a buyer or seller to smooth out temporary imbalances between supply and demand for foreign exchange.

Georgia became a member of the International Monetary Fund (IMF) in May 1992 with a quota of SDR 111 million. Georgia accepted Article VIII of the Articles of Agreement of the IMF in early 1997. The national currency is convertible on current account without any restrictions. No requirements exist on the right of legal and natural persons to obtain, bank or dispose of foreign exchange, and there are no requirements to surrender foreign exchange earned from export operations. Foreign currency needed for imports is equally available for goods subject to import licensing. A court order is required to freeze the bank accounts of domestic and foreign-owned firms.

c. Investment regime

Foreign and domestic investment on the territory of Georgia are regulated by the Law on Promotion and Guarantees of Investment Activity of 12 November 1996. Foreign investors enjoy the same rights and protection as physical and legal persons of Georgia according to paragraph 1, Article 3 of the Law. Under this law, disputes between foreign investors and enterprises registered in Georgia could be settled in the courts of Georgia or in other fora, including arbitration, such as the International Center for the Settlement of Investment Disputes. A registration requirement for foreign investors has been abolished by the Law on Amendments and Changes to the Law on Promotion and Guarantees of Investment Activities of 26 June 1998. Georgia has concluded bilateral investment agreements with 22 countries and is currently negotiating similar agreements with 7 more countries. These countries include Canada, China, the United States and many countries in Europe, the CIS, and the Middle East.

Subject to the payment of taxes and other compulsory charges, every foreign investor has the right to transfer abroad freely and without delay all capital, profit and other monetary proceeds generated by investment activity (paragraph 5, Article 3 of the Law). These rights could be restricted by decision of court in case of bankruptcy proceedings, criminal offence or failure to meet civil obligations. A foreign investor has the right to transfer abroad property owned by him/her.

Investment in certain sectors is prohibited or subject to licensing (Article 9). Permission is required in order to engage in the production of weapons and explosives; narcotic, poisonous and pharmaceutical substances; exploration and exploitation of any renewable or non-renewable substances; exploration of deposits of natural resources; establishment of casinos and gambling houses and the organization of games and lotteries; banking; insurance; issuance of securities; wireless communication services and the establishment of radio and television channels; and any other activities stipulated by the legislation of Georgia.

According to the Law on Amendments and Changes to the Law on Promotion and Guarantees of Investment Activities, investment is prohibited in areas related to the creation, production and proliferation of nuclear, bacteriological and chemical weapons; construction of polygons for testing nuclear, bacteriological and chemical weapons; importation of radioactive and toxic waste; scientific research activities connected with human cloning; production of narcotic substances; cultivation of poppy, coca and hemp; and activities prohibited by international legislative acts, agreements, conventions and protocols to which Georgia is a contracting party.

d. Competition policy

The first steps to implement an anti-monopoly policy in Georgia had been taken in September 1992, when the State Council had adopted a Decree on the Restriction of Monopoly Activities and the Development of Competition in Georgia and an Anti-monopoly Policy Department had been established within the Ministry of Economy. Parliament adopted a more comprehensive Law on Monopolistic Activity and Competition in June 1996. An independent regulatory commission had been established to regulate prices in energy distribution, and a similar commission is under consideration in the telecommunications sector.

Georgia has established the legislative basis for competitive markets, in particular by deregulating prices and rescinding exclusive rights previously granted to certain economic agents, and through the abolition of restrictions on competition in certain activities. The new Anti-monopoly Law requires the establishment of a State register of natural monopolies. According to this register, natural monopolies exist in the provision of postal services, distribution of frequency spectrum, railway transport, pipe line services (the State Company "Sakgazi"), high-voltage power transmission (the State Company "Sakenergo"), air traffic control and dispatcher services (the State Company "Sakaeronavigatsia"), and in port services (the sea ports of Poti, Batumi and Sukhumi).

e. Transparency of laws

A normative act cannot take effect before its official publication (Article 38, paragraph 5 of the Law on Normative Acts of 29 October 1996). Normative acts for enactment are published either in "Sakartvelos Kanonmdblobis Matsne" (Georgian Legislation News), "Sakartvelos Parlamentis Utskhebani" (Georgian Parliament News), "Sakartvelos Respublica" (official newspaper), or in the official publishing organ of the authority adopting the normative act.

(ii) Import regulation

a. Ordinary customs duties

Georgia's customs duties are established according to the Law No. 1316-II on Customs Tariff and Duty of 20 March 1998. Section III of the new Customs Code of 14 November 1997 also contains provisions regarding customs duties. Article 6 of the Law on Customs Tariff and Duty authorizes the use of special tariffs and seasonal tariffs – for periods not exceeding six months in a year – to regulate trade in goods with particular variations in production or consumption.

Georgia is using the 1996 version of the Harmonized System nomenclature as of 1 January 1998 in accordance with Decree No. 249 of 24 December 1997 of the Chairman of the Customs Department of Georgia.

Customs tariffs are levied at the rate of zero, 5 per cent or 12 per cent. All customs duties are *ad valorem* rates. Some exemptions are made for tobacco products tariffs provided by WTO agreement. Most imports are subject to the 12 per cent rate, while the 5 per cent rate is applied to imported pharmaceuticals; capital goods, including spare parts and supplementary equipment; and specific goods used in production. The average trade-weighted tariff amounts to 10.3 per cent. This average has declined as substantial imports were allowed in duty free as a result of free-trade agreements and free imports of donor-provided goods. Customs tariffs may be changed in the nearest future as it was agreed with WTO countries.

Georgia levies no duties and charges on imports other than ordinary customs duties and fees and charges for services rendered. Any such charges applied to imports after accession will be in accordance with WTO provisions.

b. Tariff rate quotas, tariff exemptions

Tariff exemptions are authorized in accordance with the Law on Customs Tariff and Duty of 20 March 1998 (Article 18) for: (i) goods for export; (ii) re-exports (against payment of customs duty, subsequently refunded, or deposition of a bank guarantee or imported goods of equal value with the Georgian Customs Department; (iii) goods in transit; (iv) imported goods placed in customs warehouses (dutiable upon withdrawal from the warehouse or under the terms of other customs regimes); (v) goods imported in relief due to natural disasters, accidents and catastrophes, or as humanitarian aid; (vi) goods financed by grants or concessional credits of a foreign governmental body or international organization, including a grant element of at least 25 per cent (defined by the Ministry of Finance); (vii) goods designated for official and personal use by foreign diplomatic and similar missions and their staff, and property imported from Georgia's diplomatic missions; (viii) goods imported temporarily into the territory of Georgia; (ix) imported raw materials and semi-finished products designated for the production of exported products, including packaging materials; (x) goods brought by natural persons to the value of up to 300 lari, per entry, in accordance with a list defined by Resolution of the Parliament of Georgia No. 273-II of 13 June 1996; (xi) imports of baby food and baby hygiene products as well as diabetic products; (xii) imports of Georgian classical literature and literary, artistic or scientific works of Georgian citizens published abroad; (xiii) imported pharmaceutical products (16 products in accordance with a list approved by the Ministry of Finance, the

Ministry of Health and the Ministry of Food and Agriculture); and (xiv) aviation fuel, lubricants and other consumables in accordance with international aviation regulations.

The tariff exemptions, except those applied in the context of free trade agreement, are applied on an MFN basis.

c. Fees and charges for services rendered

A customs clearance fee equal to 0.15 per cent of the customs value is applied on import and export (other than temporary imports and exports) of all kinds of goods, with a minimum charge of lari 50 and a maximum charge of lari 2,000 effective 1 January 2000. There are no exceptions to this fee.

Transit cargoes are charged clearance fees of 100-300 lari, depending on mode of transport. Temporary imports are charged 10 lari per ton up to ten tons, and 3 lari per ton above that amount. Fees for veterinary border services are established in accordance with Article 37 of the Veterinary Law. Fees range from 70-120 lari per consignment for imported goods, 60-110 lari for goods in transit and 75-125 lari for exported goods. The veterinary service can charge additional fees according to established price lists, for example on animal cargoes on suspicion of disease or for violation of transportation rules. A charge for quarantine services imposed on cargo held in quarantine, including fumigation and storage.

d. Application of internal taxes to imports

Caviar, alcoholic beverages, mineral water, tobacco and tobacco products, petrol, tyres, jewelry and motor vehicles are subject to *excise tax* in Georgia. Article 130 of the Tax Code stipulates the same tax rate for imported and domestic products. Excise taxes are applied at the border to imported goods at the moment of importation, and at the place of production (within 90 days of delivery or reimbursement) for domestic goods. Concerning the taxation of motor vehicles Georgia also charges owners of motor vehicles an annual tax to the benefit of the road fund, and motor vehicles are subject to a tax upon entry (including transit) into the territory of Georgia. Imported motor vehicles resold in Georgia are not subject to additional excise tax.

The Law on Value Added Tax (VAT), one of the constituent parts of Georgia's Tax Code, was adopted by Parliament and entered into force on 1 September 1997. Value added tax is levied at a general rate of 20 per cent. VAT is applied to the wholesale price plus excises for domestic products, and the customs value, including import duty and excises, for imports. Exempt from VAT (Article 101 of the Tax Code) are postage stamps (except for collection); Georgian and foreign currency

(except for numismatic purposes) and securities; valuables confiscated or with no known owner, and valuables inherited by the State; gold to be transferred to the National Bank of Georgia; imported books and journals on science, art and fiction written by Georgian citizens; school books approved by the Ministry of Education in agreement with the Ministry of Finance; goods given to State bodies of Georgia as humanitarian assistance or charity, or in relief of natural disasters, accidents, and catastrophes; goods provided as grants, approved according to a procedure specified by Presidential Decree; goods provided in the form of grants or concessional loans (minimum 25 per cent grant element) by bilateral or multilateral international organizations; medicines falling within HS Chapter 30; medical technology (HS codes 90.18-90.22); baby food; fixed assets and spare parts (HS Chapters 84, 85 and 90); goods in transit and temporary imports; re-imported goods; imports for official or personal use of staff of diplomatic and similar representative offices to the extent required by relevant international agreements; private imports of goods valued at less than the threshold amount for imposition of customs duty; goods processed abroad by the exporter of the raw materials; raw materials guaranteed by collateral for the purpose of processing and exportation; and goods intended for re-export, guaranteed by collateral.

Georgia has applied the destination principle in VAT taxation as from 1 September 1997. The VAT rate is accordingly identical for locally produced and imported products, including imported goods originating in other CIS countries.

e. Quantitative import restrictions, including prohibitions, quotas and licensing systems

Licenses are required for importation of certain agricultural chemicals, wild animals and plants, medicines, arms, explosives, nuclear materials, industrial waste, and tobacco products. The licensing system is maintained to protect public health, safety and the environment, and is not intended to restrict the quantity or value of imports.

Import licenses are obtained from the Ministry of Economy, Industry and Trade or the Ministry of Health Protection, with the consent of the relevant ministry or department. Any person, firm or organization can apply for an import license. The decision to grant a license is required to be taken within 5 working days from the date of registration of the application. A license is valid for the period fixed in the import contract, but not for more than one calendar year. The validity can be extended upon request. A license can not be transferred to another importer.

According to its obligations under the WTO, Georgia does not introduce, re-introduce or apply quantitative restrictions on imports, or other non-tariff measures

such as licensing, quotas, bans and other restrictions having equivalent effect that can not be justified under the provisions of the WTO Agreement.

f. Customs valuation

The instructions on the determination of customs value was adopted by Resolution No. 843 of the Cabinet of Ministers of 5 December 1994. These instructions provides for six methods of valuation, of which the primary method was based on the transaction value. The minimum import price system was abolished in March 1998. The new Law "on Customs Tariff and Duty", adopted on 20 March 1998, revoked the 1996 law and contained no reference to world market prices in the valuation rules established in its Article 10.

g. Rules of origin

The Georgia's Customs Code contains rules of origin. Georgian legislation requires indication of the country of origin of goods for both imported and domestic products. A certificate issued by the competent authority in the country of origin is necessary only for goods imported under preferential trade. CIS countries apply a uniform "C-1"⁷⁸ certificate, and have concluded an agreement on the general rules of determining the country of origin. Georgia does not require authentication of import/export documents by its consulates overseas.

Origin criteria are based on the principles of wholly obtained or sufficient processing in another country. The wholly obtained criterion would typically be applied to minerals; plant products; livestock and livestock products; products of hunting, fishery and sea fishery; and secondary raw materials and wastes obtained from manufacturing and other operations. Sufficient processing is defined in terms of change of tariff position, the technology employed in the processing, or defined in accordance with established cost ratios. Mere storage and packaging, preparation, sorting, repackaging, simple assembly operations or mixing of goods (components) will not be considered sufficient processing.

The new Law on Customs Tariff and Duty, adopted by Parliament on 20 March 1998, stipulates that Georgia's rules of origin should be based on international experience. Accordingly, new regulations on rules of origin were prepared which are fully consistent with the Agreement on Rules of Origin. The Ministry of Justice approved the new regulations on 31 May 1999. The new rules of origin regulations provides for acceptance of a certificate of origin from all countries.

⁷⁸ C-1 – certificate of origin used in CIS countries.

h. Anti-dumping, countervailing duties, safeguard regimes

The Articles 10-13 of the Decree of the Council of State “On Customs Tariff” of 21 October, 1992, contains provisions on the imposition of anti-dumping and countervailing duties. The 1992 decree has been replaced with the Law on Customs Tariff and Duty of 20 March 1998, which provides the legal basis, in principle, for the imposition of anti-dumping, countervailing or safeguard measures. However, this legislation has never been used.

(iii) Export regulations

a. Customs tariffs, fees and charges for services rendered; application of internal taxes to exports

All exporting legal and natural persons are required to register with the State Department for Statistics. The general State register is decentralized, i.e. the entrepreneur is included in the register of any regional statistical office after registration at the local court. The State register maintains no restrictions on registration.

Georgia does not apply customs duties on exports. Exported or re-exported goods are exempt from customs duties. As of 1 September 1997, when the new Tax Code entered into force, Georgia imposed VAT according to the destination principle and all exports, including to CIS countries, are zero rated. The regional customs offices perform customs clearance on all export cargoes.

b. Export restrictions

Georgia maintains some export prohibitions or restrictions to protect public health, consumer welfare, the environment, the national patrimony and national security. The prohibitions or restrictions are applied equally to exports to all countries. Exports of arms and gunpowder, artwork and antiques of cultural value, as determined by a special commission within the Ministry of Culture, are prohibited.

Export licenses are issued by the Ministry of Economy, Industry and Trade, except for medicines and medical supplies (Ministry of Health Protection). Licenses are granted within 5 working days from the date of registration of the application. A license is valid for the period stipulated in the export contract; maximum one year. The validity of a license can be extended upon request. A license cannot be transferred to another exporter.

c. Export subsidies

Georgia maintains no export subsidies.

(iv) Policies affecting trade in goods

a. Trading rights

In Georgia all natural and legal persons, foreign or domestic, can engage in importation and exportation activities provided they are registered with the Taxation Department of the Ministry of Tax Revenue and with the State Department for Statistics. The Law on Business Licensing was enacted on 14 May 1999. The Law authorized licenses in the following areas (with the responsible agency): (i) Insurance activities and mediation in insurance business (State Agency for Insurance Control); (ii) Banking activity, activity of currency exchange shops (National Bank); (iii) Production and repair of weapons and other military products and their sale (Ministry of Justice, within limits set by the National Security Council of Georgia); (iv) Air shipping, marine shipping and towing (Ministry of Transport); (v) Securities industry, i.e. the activities of broker companies, brokers' activities, activities of stock exchanges, activity of the central depository of securities, activity of securities registering clerks (Ministry of Finance); (vi) Lotteries and other profitable games (Ministry of Finance); (vii) Production and sale of pharmaceutical products, substances subject to special control, and medical products used in veterinary activity; activity of medical organizations (Ministry of Health); (viii) Activity of diagnostic centers in charge of technical assessment of motor transport means (Interior Ministry); (ix) Design and construction activity (Ministry of Urbanization and Construction); (x) Activities of audit firms (Auditing Council of the Parliament); (xi) Activities of private educational institutions (Ministry of Education); and (xii) Metrology and Measurement activities and repair services (State Department for Standardization, Metrology and Certification).

According to Article 1, the Law does not apply to: (i) the activities subject to Article 1.2 of the Georgian Law on Entrepreneurs; (ii) export or import of goods or services; (iii) activities connected with environment protection or use of natural resources, electricity or natural gas, or telecommunications and postal services, which regulated by special laws; and (iv) production of food, including baby food, and tobacco products. Article 1.2 of the Law on Entrepreneurs stated that "Artistic, scientific, medical, architectural, advocating and notary, auditing, agricultural or forestry related activities performed by natural persons shall not be considered as Entrepreneurial activity", and such activities are thus not subject to the Business Licensing Law. With reference to the areas covered by the Law, it provides detailed procedures which the responsible agencies are obliged to

follow in issuing any required licenses. These procedures are limitations on the authority of ministries to restrict or deny licenses, and are designed to protect businesses from arbitrary decisions of ministries.

The former State monopoly in foreign trade was abolished and no restrictions exist on the right of individuals and enterprises to import and export goods into Georgia's customs territory, except as provided in WTO Agreements. Individuals and firms are not restricted in their ability to import or export based on their registered scope of business and the criteria for registration are generally applicable and published in the official journal.

b. Technical barriers to trade, sanitary and phytosanitary measures

i. Standards and certification

The Laws on Standardization and on Certification of Products and Services constituted the basic legal framework for activities in this area. A new standards law, however, was drafted by European experts to meet the requirements of the TBT Agreement and was enacted by Parliament on 25 June 1999. The new Law introduced a new system of voluntary standardization. The Ministries of Construction and Urbanization, Protection of Environment and Natural Resources, Health Protection and other departments ensure product safety requirements, construction norms and regulations, and sanitary norms and regulations. The State Department of Georgia for Standardization, Metrology and Certification ("Sakstandarti") is the national body of standardization, metrology and certification in Georgia. "Sakstandarti" operates centers working on standardization, metrology and certification in Tbilisi and seven provincial cities, and State supervision of standard requirements and metrology norms is carried out by "Sakstandarti" through its local organizations. "Sakstandarti" is a member of the Interstate Council of Western Countries for Standardization, Metrology and Certification, and became a correspondent member of the International Organization for Standardization (ISO) on 1 January 1998.

Although conformity with mandatory intergovernmental (GOST) standards of the CIS countries, not members of WTO, is still technically required in Georgia, virtually all imports are allowed entry without being required to meet these standards. Georgia is moving rapidly towards reliance on voluntary standards, based on international standards, in many areas. These standards will be replaced with international standards and technical regulations based on international standards.

Georgia complies with all obligations under the WTO Agreement on Technical Barriers to Trade from the date of accession without recourse to any transition period.

ii. Sanitary and phytosanitary measures

Georgia adopted new legislation, including the Law on Protection of Plants from Harmful Organisms of 14 October 1994, the Law on Agricultural Quarantine of 15 May 1997, and a new Veterinary Law reflecting the standards established by the OIE (Office International Des Epizooties).⁷⁹ A Presidential Decree on SPS Measures was drafted to meet the requirements of the SPS Agreement, and issued on 28 July 1999.

Georgia's sanitary and phytosanitary standards are intended solely for the purpose of protecting the health of human, animal and plant life, and not to create technical barriers to trade or to protect domestic producers. Compliance with Georgia's regulations is determined by the State Sanitary Service and Department of Hygiene under the Ministry of Health Protection; the Sanitary, Quarantine and Supervision Department of the State Inspection on Plant Quarantine; and the Department of Veterinary under the Ministry of Agriculture and Food, in cooperation with the Border Veterinary, Sanitary and Phytosanitary Service.

The State Border Veterinary Supervision Inspection checks all imports of live animals, meat and fish, animal and fish products, animal fodder and feed supplements and veterinary preparations. A license from the State Inspection of Plant Quarantine is required for importation, re-export or transit of goods covered by plant quarantine regulations. Traded goods covered by quarantine regulations includes agricultural products, timber, seeds and seedlings, plants and plant parts, and plant products that could carry infectious diseases; hides and unprocessed wool; mushrooms, bacteria, viruses, nematodes and insects on living cultures; collections of insects, which could bring plant diseases; herbaria and seed collections; agricultural machinery, aggregates for land development, vehicles, vessels, packaging materials and industrial plants; and soil samples which can carry plant diseases. Preshipment inspection, leading to an international veterinary certificate, should be carried out where appropriate. Importation of commodities of plant origin and other items subject to quarantine requires a phytosanitary certificate issued by the quarantine service of the exporting country as well as a certificate on the condition of the commodity delivered by the relevant division of Georgia's Ministry of Food and Agriculture (Article 8 of the Law on Agricultural Quarantine). Infested

⁷⁹ Office International Des Epizooties (OIE) – World organization for animal health. Created in 1924 in Paris, France.

or infected shipments which can not be disinfected will be returned to the country of origin or destroyed with the owner's consent.

Georgia complies with all obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures from the date of accession without recourse to any transition period.

c. Transit

Goods transported through the territory of Georgia are exempt from customs duty, VAT and excise taxes. On 16 April 1999, Georgia acceded to the Convention and Statute on Freedom of Transit of 20 April 1921; the Convention on Transit Trade of Land-Locked States (New York, 8 July 1965); and the International Convention on the Harmonization of Frontier Controls of Goods (Geneva, 21 October 1982).

d. Trade in civil aircraft

Georgia maintains a duty-free regime for the importation of aircraft parts and other supporting equipment used in international transportation. Georgia also joined the Agreement on Trade in Civil Aircraft upon accession to the WTO.

(v) Trade-related intellectual property regime

a. Industrial property protection: General

Intellectual property rights are inviolable according to Article 23 of the Constitution. The system of intellectual property protection in Georgia is in conformity with the requirements of leading multilateral treaties in this field, including the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPs Agreement). Georgia is a member of WIPO and a party to the Paris Convention for the Protection of Industrial Property (18 January 1994); the Patent Cooperation Treaty (18 January 1994); the Bern Convention for the Protection of Literary and Artistic Works (15 May 1995); and the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (20 August 1998). Georgia joined the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1961). Georgia concluded a bilateral agreement with Uzbekistan on cooperation in the field of industrial property protection in 1996, and an agreement on cooperation between the patent offices of Georgia and Austria. Georgia also concluded a bilateral agreement with Kazakhstan (11 November 1997) on industrial property. This agreement was based on the Paris Convention. In May 2001 Georgia also joined to WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty.

The Georgian National Intellectual Property Center (“Sakpatenti”) is responsible for matters involving industrial property (inventions, utility models, industrial designs, trade marks, service marks), and for matters involving appellations of origin and layout designs of integrated circuits and also with matters involving copyrights and neighboring rights, and the Ministry of Agriculture is responsible for matters involving plant variety protection.

Georgia grants national treatment in accordance with the Paris and Bern Conventions. Georgia grants national and MFN treatment to members of the WTO upon accession to the WTO.

b. Copyright and related rights

Georgia provides copyright protection under the provisions of the law on Copyright and Neighbouring Rights, adopted by Parliament on 22 June 1999. The Copyright Law of Georgia was prepared on the basis of the WIPO model law.

The Civil Code (Article 1017) protects the moral and economic rights of authors, and neighboring rights connected with performers, producers of phonograms and broadcasting organizations.

c. Trademarks, including service marks

The Law on Trademarks is based on the standards of the TRIPs Agreement and the European Communities Council Regulation (EC) No. 40/94 of 20 December 1993 on the Community Trade Mark, as amended by Council Regulation (EC) No. 3288/94 of 22 December 1994 for the Implementation of the Agreement Concluded in the Framework of the Uruguay Round.

Trademarks are protected through registration with the Georgian National Intellectual Property Center “Sakpatenti”, as well as geographical indications, including appellations of origin and industrial designs.

The Law on the Protection of Appellations of Origin and Geographical Indications is based on Articles 22 to 24 of the TRIPs Agreement and European Communities Council Regulation (EC) No. 2081/92 of 14 July 1992.

d. Patents

According to the Patent Law (27 May 1999) the Georgian National Intellectual Property Center “Sakpatenti” grants patents for inventions which are considered novel, involve an invention, and are industrially applicable. The term of a patent is 20 years from the date of filing of the application.

e. Measures to control abuse of intellectual property rights

The State Anti-monopoly Service is authorized to take measures against acts of unfair competition according to Article 21 of the Law “on Monopolistic Activity and Competition”. The Service can initiate court proceedings, requesting the cessation or prohibition of activities violating Georgia’s anti-monopoly legislation, and raise the issue of administrative and criminal liability.

(vi) Policies affecting trade in services

a. General legal framework

General laws related to services include the Constitution of Georgia; the Law on Promotion and Guarantees of Investment Activity; the Law on Entrepreneurship; the Law on the Legal Conditions of Foreigners; the Law on Temporary Entry, Residence and Exit of Foreigners from Georgia; the Law on Monopoly Activities and Competition; and the Bankruptcy Law of 25 July 1996.

b. Business and financial services

Concerning specific services sectors, a Law on Business Licensing, enacted on 14 May 1999, provides the framework for licensing the sectors of insurance, banking, securities, air and maritime transport, auditing services, construction and design, and private education services, including licensing agency and uniform procedures to be followed. Banks are required to be registered with the Courts, and to hold a banking license issued by the National Bank of Georgia. The National Bank based its administrative decisions on the Law on the National Bank of 28 June 1995 and the Law on Commercial Banks Activities of February 1996. Foreign banks operate in accordance with Georgia’s common banking legislation and are not subject to any special or additional requirements. The Insurance State Supervision Service controls insurance activities. Licenses are granted for an indefinite period of time. The Insurance Law was amended in October 1998 to abolish restrictions on foreign ownership of insurance companies, effective upon Georgia’s accession to the WTO. The Ministry of Finance established and enforces the regulatory regime for the stock market and issuance of securities. Parliament approved a law establishing a stock market and providing for registration and regulation of securities in Autumn 1998. Parliament also approved amendments to the Law on Entrepreneurship providing for improved stockholder protection and other provisions to encourage the development of a securities market in Georgia.

c. Telecommunications and postal services

The Ministry of Telecommunications and Postal Services regulates the telecommunication sector and postal services in accordance with the Law on Telecommunications No. 568 of 12 October 1994. The Ministry formulates legislation, regulates tariffs and charges and participates in the establishment of industry standards. Licenses are issued by the Ministry of Telecommunications, on the basis of a decision of a Licensing Committee (approved by the Minister) within one month of submitting the application and documentation. Telecommunication services are provided by both State-owned and private firms. Postal services are a State monopoly in accordance with Presidential Decree No. 334 of 20 May 1996. However, foreign express companies also operate in Georgia.

d. Legal services

The Ministry of Justice regulates legal services. Legal services by foreign lawyers are not regulated or restricted by Georgian legislation. A new Law on Bookkeeping and Accounting was adopted by Parliament on 5 February 1999. Audit services are regulated by the Audit Board established under the Parliament of Georgia. Audit firms need to have a license from the Audit Council in order to provide audit services in Georgia.

e. Tourism services

The regulatory regime in the tourism sector comprises the Tourism Chart and Tourism Code (September 1995), the Law on Tourism and Resorts of 6 March 1997, and Amendments and Changes to the Law on Tourism and Resorts of 20 March 1998. The fee for licensing tourist activities is set at 245 lari and applies equally to domestic and foreign firms.

(vii) Regional cooperation

Georgia is a member of several multilateral economic organizations, including the Customs Cooperation Council (CCC); the European Bank for Reconstruction and Development (EBRD); the United Nations Economic and Social Council (ECOSOC); the European Telecommunications Satellite Organization (EUTELSAT); the Food and Agriculture Organization (FAO); the International Atomic Energy Agency (IAEA); the International Civil Aviation Organization (ICAO); the International Fund for Agricultural Development (IFAD); the International Labour Office (ILO); the International Monetary Fund (IMF); the International Maritime Organization (IMO); the International Maritime Satellite Organization (INMARSAT);

the International Organization for Migration (IOM); the International Road Traffic Organization (IRTO); the International Trade Center (ITC); the International Telecommunications Union (ITU); the Organization for Security and Cooperation in Europe (OSCE); the United Nations Conference on Trade and Development (UNCTAD); the United Nations Development Programme (UNDP); the United Nations Economic Commission for Europe (UNECE) and Economic and Social Commission for Asia and the Pacific (UNESCAP); the United Nations Environmental Programme (UNEP); the United Nations Industrial Development Organization (UNIDO); the Universal Postal Union (UPU); the World Food Programme (WFP); the World Health Organization (WHO); the World Intellectual Property Organization (WIPO); the World Meteorological Organization (WMO); the World Bank; the International Bank for Reconstruction and Development (IBRD); the International Development Association (IDA), the International Finance Corporation (IFC); the Multilateral Investment Guarantee Agency (MIGA); and the World Tourism Organization.

Georgia signed 30 bilateral agreements containing substantive provisions directly affecting foreign trade in goods and/or services. Georgia concluded Free Trade Agreements with Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Turkmenistan, Ukraine and Uzbekistan. Georgia also signed 22 agreements on trade and economic cooperation or economic relations, as well as a number of agreements and treaties on the promotion and reciprocal protection of investment⁸⁰ Georgia signed a Partnership and Cooperation Agreement with the European Communities on 22 April 1996. The agreement was based on reciprocal application of the MFN principle. Georgia is a participating State in the Black Sea Economic Cooperation (BSEC), established on 25 June 1992.

Georgia became a CIS member on 9 December 1993. Georgia signed the Agreement on the Creation of an Economic Union of 24 September 1993 and the Agreement on Creation of a Free Trade Area within the CIS. The Agreement on Creation of a Free Trade Area within the CIS bound signatories not to impose import or export duties or quantitative restrictions on goods originating in signatory countries.

(c) *Main obstacles to effective implementation of the WTO commitments and ways to overcome them*

Two points need to be emphasized as a result of Georgia's accession to WTO: First, becoming WTO member has allowed Georgia to achieve its main goal. Thus, the task is completed and further efforts to develop relationships

⁸⁰ The respective agreements are listed in document WT/ACC/GEO/3, Annex 7.

with this organization are not necessary. Second, accession to WTO must be immediately followed by comprehensive development of the economy. The main challenge now is the timely implementation of WTO obligations and to maintain good relations with this organization.

Among the obligations undertaken under WTO the most important one are the tariff changes as a result of agreed bound tariff schedules during the accession process. As mentioned before, Georgia's bound tariffs cover a broad range of commodities and allow the possibility of tariff growth on a number of products. Unfortunately, the implementation of such possibility encountered rather strong resistance from the IMF. The IMF's position is based on the consideration that any increase of applied tariffs (from current 0; 5 and 12 per cent) due to the weak customs administration is not desirable. The Government of Georgia was forced to accept this position.

Georgia also faces significant difficulties in the implementation of obligations assumed in standardization and certification. This is mainly caused by the lack of financial as well as appropriate human resources. In order to improve this situation, more adequate technical assistance from developed countries is required. In any case, there is a danger that the three-year transitional period agreed with WTO will not be sufficient for the full implementation of obligations.

During accession Georgia significantly improved the legislative framework regulating intellectual property, which generally meets TRIPs' requirements. Herewith, the mechanisms for execution, implementation and enforcement of the legal provisions are still rather weak and require technical as well as expert assistance.

Notifications demanded by WTO rules require the existence of a developed information infrastructure, including continuous functioning of information centers, which have to be established in the country in accordance with the WTO Agreements. At present, an SPS information center is successfully operating in Georgia. However, the information center for standardization faces a number of technical and financial difficulties, while such center is not yet established for trade in services. Full implementation of notifications requirements is also complicated by the lack of adequate human resources in institutions working on WTO matters (sectorial ministries, departments).

Therefore, there is a strong need for assistance from the WTO Secretariat and developed member countries to improve information exchange and build local capacity.

In addition to the above-mentioned problems of implementation of WTO obligation there are serious barriers to effective use of the privileges of membership. Lack of local professional expertise and strong negotiation skills prevent Georgia to use new opportunities for the access of Georgian products and services to foreign markets, protect Georgian entrepreneurs' interests through WTO's mechanisms, actively participate in multilateral negotiations of the World Trade Organization, etc.

As a result, there is an urgent need to develop special educational programmes at Universities, improve special publications, develop closer contact with WTO-related advisory centers abroad, and actively participate in future negotiation processes. In this context, great importance is attached to the agreement of WTO members in Seattle to establish a "Law Advice Center" although today the membership fee creates some difficulties for Georgia.

4. Conclusions and recommendations

The Georgian experience illustrates that accession to the WTO in addition to serious economic argumentation based on economic analysis and forecasts, requires strong political will and determination.

It is noteworthy that not only the long-term implications of accession but also the difficult accession process itself, give strong impetus to developing the national legal economic framework. This, in turn, has a direct positive influence on broadening the country's foreign economic relations.

For countries similar to Georgia, with relatively short experience in undertaking independent foreign economic activities, the process of accession represents a great opportunity for local capacity building in this respect, particular reference should be made to proper use of diverse forms of technical assistance provided by the WTO and its member countries.

Special attention should be given to the continuation of the process related to the development of relevant legislation in the country after accession, intensive exchange of information, constructive dialogue between member and acceding countries, training of personnel and development of all institutions, which have accumulated significant information and experiences during the process of accession. On that basis, it would be possible to properly fulfill all relevant WTO commitments undertaken during the process of accession and use WTO membership to the country's benefit.

It is also necessary to have a clear understanding both in the public and private sector and by the public at large that accession to WTO is not an end by

itself but provides the country with opportunities to successfully develop its economy in a globalizing world.

It is hoped that the forthcoming WTO Ministerial Conference in Doha, Quarter in November 2001, which will see Georgia's active participation, will contribute to a better understanding of all the above-mentioned issues by the general public of the country.

As WTO Director-General Mr. Mike Moore noted in his speech in London.⁸¹ "This year is a crucial year for the multilateral trading system. In November Qatar will host the forth WTO ministerial meeting. Our aim is to launch a new round of multilateral trade negotiations. It is a big challenge, but with focus and flexibility we can succeed. The alternative looks very unattractive".

In spite of the fact that Georgian GDP per capita is less than it is in many developing countries, the country is ready to support further trade liberalization.

Following the WTO conference in Seattle, which had to be ended hastily amid armed riots and crisis-inspired curfews, the global trading bloc has promised to clean up its act. The Director-General has promised to be more target- and public-oriented, to make information more easily available and to involve Non-Governmental Organizations more in decision-making processes.

It is the opinion of Georgia that WTO must work towards bringing developed countries and small economies closer together. In many cases small countries can not deal with their problems. Developed countries must do more to provide help, whether via technical means or by lowering tariff barriers. It is hoped that WTO disciplines will be deepened and strengthened in many areas in the coming negotiations and Georgia will work to that end. Georgia especially supports the dispute resolution mechanism as an effective means of protecting the interests of small countries such as Georgia.

The WTO provides an opportunity for small economies to be part of the world trading system. But increased exposure to the trends of globalization also carries with it certain dangers. Georgia believes that technical assistance provided through the WTO or bilaterally by developed WTO member countries is an important mechanism for protecting small economies from these dangers. Therefore, Georgia urges the leading WTO members to strengthen and expand such technical assistance programmes to the maximum extent possible.

In conclusion, Georgia looks forward to full participation in the efforts of the WTO to further expand international trade.

⁸¹ 6th John Payne Memorial Lecture, European Business School, London, 12th March 2001.

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D. Kazakhstan⁸²

1. Introduction

From the moment of declaration of independence in 1991, the Republic of Kazakhstan has proceeded with radical reforms of its economy. The transition of Kazakhstan to a market economy raised the problem of integration into the world economy. The reform process enabled the country to formulate and implement an independent foreign trade policy, which before independence was not possible. The comprehensive development of foreign economic relations of Kazakhstan, and its integration into world economy, requires the establishment of an effective trade policy mechanism based on principles, norms, rules and practices existing in modern international trade. Such an active and effective mechanism for trade and political regulation is a pledge to stable development of the external economic activities of a state and its economic agents. In order to effectively integrate into the global economy, a substantive reform of the entire system of foreign economic relations is required, including trade and political aspects. Only if the country applies the rules approved by the world community, effective integration is possible.

During the last decade, Kazakhstan has tackled the issues of accession to WTO. In the process, a great deal of work has been done, and negotiations with member-countries on the specific terms and conditions of entry of the country on the basis of equal rights to the worldwide system of regulation of trade in goods and services were started. This paper discusses these issues at some length.

This report was prepared for the Subregional Workshop on Accession to WTO – Economies in Transition, which was organized by the United Nations Economic and Social Commission for Asia and the Pacific (UN/ESCAP) in cooperation with the Ministry of Foreign Economic Relations of the Government of Uzbekistan. The purpose of the paper is to analyze specific problems in the process of accession of Kazakhstan to the WTO. Section 2 reviews trade policy of the country over the last ten years, including a review of the process of trade policy formulation and mechanisms for trade regulation. Section 3 discusses the accession process of Kazakhstan to the WTO, the course of the negotiation process, problems which the country faces in the course of the negotiation process, and other problems encountered at both international and national level in the process of accession. Section 4 analyzes the experiences of some other economies in transition in their successful accession to WTO and provides the major conclusions and recommendations.

⁸² Based on a paper prepared by Ms. Nailya Abdimoldayeva, Head, Department of External Policy, Director, Department of Trade, Ministry of Economy and Trade, Kazakhstan.

2. Analysis of trade and trade policy during 1992-2000

(a) *Analysis of foreign trade policy*

(i) *Legislative and institutional framework in the area of foreign trade*

Foreign trade activity is regulated by a rather wide range of normative and legal documents, which generally meet the norms of WTO Agreements. In particular, the following documents can be identified:

- (1) Laws, decrees of the President of Kazakhstan, and resolutions of the Government of Kazakhstan (customs and tax codes, currency regulation, foreign investments, measures of trade protection, duty rates, and others), as well as departmental normative legal acts, which include instructions, orders and others. The objective and task of the latter is mainly to provide a more exact definition, explanation and/or specification of articles of laws, decrees and resolutions;
- (2) International treaties and agreements on economic cooperation in trade, in which Kazakhstan participates, including multilateral and bilateral agreements.

The Government of Kazakhstan assumes leadership and controls foreign trade activity through the Ministry of Economy and Trade. Other concerned institutions include the Ministry of Foreign Affairs, responsible for political and economic relations with foreign countries; Ministry of Finance, controlling financial policy; Customs Committee of the Ministry of State Revenues, responsible for customs affairs in the Republic; Ministry of Energy and Mineral Resources; Chamber of Commerce and Industry of Kazakhstan, an independent organization, promoting development of foreign relations of the country at the private sector level; and other various public organizations (unions of manufacturers and entrepreneurs, unions of producers and others).

(ii) *Review of export and import regime*

Kazakhstan main competitive advantage is the availability of rich natural resources, which are in great demand in the world market and which enables the country to actively expand foreign economic relations. The most important are oil, ferrous metals, and chrome and its alloys, which have triggered industries such as rolling of non-ferrous metals, production of oil-refining and chemical industry. Other important export products are grain, cotton, wool, hides and other products of the agricultural sector.

When Kazakhstan became a sovereign country, it faced the necessity of establishing its own system of regulation of foreign trade. In 1992-1993 the Government of Kazakhstan adopted resolutions determining measures on non-tariff regulation of foreign trade. These measures included the establishment of quotas and an export license system for exports of strategically important raw materials. The system of export licenses and quotas covered 200 different commodity items, including metals, foodstuffs, grain and other consumer, industrial and construction materials, and served the following objectives:

- (1) To preserve natural resources in the case of economic decline and a fall in trade with countries of the former Soviet Union;
- (2) To maintain price differences between the domestic and world market, as well as between the domestic market and markets of the countries of the former Soviet Union, which controlled prices, for instance, on energy products;
- (3) Ensure delivery of goods to the domestic market at affordable prices.

The centralized distribution of licenses through the Ministry of Foreign Economic Relations and through its regional subdivisions, complicated and raised the cost of border trade. Customs tariff rates were imposed on imports and exports (in 1993 duties were levied on 145 export products and a 20 per cent income tax on export of raw oil was established). In addition, exporters had to sell an obligatory share of foreign currency earnings to the National bank, the imports of goods of social importance (mainly medicine and medical equipment) were centralized, and intergovernmental treaties on deliveries of the most important goods and services were concluded.

From January 1994 onwards, 7 specialized trade organizations, the so-called State Foreign Trade Companies (SFTC) have owned the right to export 18 types of strategically important raw materials. These monopolies were set up for the purpose of more efficient currency control, but in fact they hampered the development of market relations in foreign trade and generated an exclusive high rent to a small selected group without obligatory transfer of this rent to the State and lowered producers income, and making redistribution of resources in the economy to ensure efficient utilization difficult as a result.

This system of foreign trade curbed the development of exports and a free competitive market. Export restrictions hampered capital inflows in sectors where Kazakhstan had certain competitive advantages and stagnated the development of a foreign market strategy. The introduction of export taxes led to lower export

prices (in order to be taxed at lower level), which in combination with the mandatory foreign currency sale led to outflow of capital through unofficial channels. Realizing that the customs tax distorted prices, and that the obligatory sale of part of foreign currency earnings for roubles at prices lower than the market exchange rate is not conducive to trade, the Government introduced payment procedures for export taxes in the new national currency on 1 January 1994. With the introduction of a national currency, the tenge, the percentage of currency earnings, subject to obligatory sale on auction currency market, was increased by 50 per cent.

From 1993 onwards, most imports into the country have been free from quotas, with a restricted range of imports – industrial waste, fertilizers, pesticides and herbicides for agriculture, diamonds and jewelry, and some kinds of medicine, subject to licensing. This list was slightly changed in 1994. Import licenses for diamond and jewelry were no longer required, but had become necessary for baby food and explosives.⁸³ At that time the system of licensing was not so much aimed at import restriction per se as to the protection of health and life of the people.

Privatization of many sectors of industry, reforms of the banking and financial sector and other market reforms undertaken during the period 1994-1996 enabled the Government to continue major but gradual reforms of the foreign trade sector, including a substitution of administrative methods of regulation by economic methods, i.e.:

- (1) Abolition of export quotas;
- (2) Reduction of products for which licenses are required;
- (3) Reduction in the average rate of customs duty from 4.9 to 4.2 per cent;
- (4) Abolition of the practice of granting customs and tax exemption;
- (5) Abolition of the state foreign trade companies;
- (6) Abolition of requirements to deliver 50 per cent of export earnings to the State;
- (7) Creation of a number of free economic zones.

⁸³ Licenses for import of baby products such as toys, clothes etc. were introduced to prevent import of low quality products. They have now been cancelled but the licenses on explosives are still in force.

In June 1995 a Law on Customs in the Republic of Kazakhstan was adopted in accordance with requirements of the WTO. The Customs Code includes more than 400 articles and is applied to all aspects of customs operations, including customs procedures for imports, rules for customs valuation and collection of customs duties and taxes, procedures for protection of intellectual property, provisions regarding the rules of origin, as well as organization and structure of customs bodies, rights and obligations of customs employees.

Kazakhstan now applies the method recognized and recommended by GATT/WTO for determining the customs value of goods.⁸⁴

In January 1995 an Agreement on Customs Union (CU) between Belarus, Kazakhstan and the Russian Federation was signed. In accordance with the Agreement, Kazakhstan reformed its customs tariffs in two stages. The first stage, implemented in March 1995, abolished all tariffs among the four member-countries. The second stage is still under implementation and aims at the establishment of a uniform external tariff for three countries. Currently, external tariffs are being harmonized.

In 1996 with a view to implement its medium-term programme for strengthening the reforms for 1996-1998, the Government pursued a policy aimed at the development of export potential with continuing improvements in the structure of exports and rationalization of import volumes and nomenclature of imported goods with due regard to the economic situation in the country, its main trading partners, and state of the world market. A number of resolutions, introducing serious changes in the foreign trade regime were adopted. These resolutions promoted export and import of technological equipment and transportation means, and simplified the procedures for exports. The customs tariff system of the country was restructured various times. Tariff were applied as the principal instrument of trade policy.

Kazakhstan's tariffs are based on the principles of import tariffs applied by most countries, including the application of tariff escalation (duty rates rise with the level of processing of the product) and efficient tariffs (low duty rates on import goods necessary for the development of local production capacity at high initial costs). Customs duty rates on imported goods are determined and changed on the basis of effective foreign trade indices, world market conditions and in accordance with international agreements of Kazakhstan. The average weighted tariff of Kazakhstan in 1995 and 1996 were 12.07 per cent and 12 per cent respectively.

⁸⁴ The customs value of goods, imported into the customs territory of Kazakhstan is the price, actually paid or payable when sold for export to Kazakhstan.

In August 1996, export customs duties were abolished. The list of goods, export of which is subject to documents confirming conclusion of an export transaction on the commodity exchange, was shortened. Most of the goods were agricultural products and products of a technical nature.

Import regulations were also reviewed. The nomenclature of imported goods subject to duty, and the levels of import customs tariff rates, did not fully meet the economic interests of Kazakhstan and inflicted damage to the activity of domestic enterprises, in particular with regard to technological equipment necessary for production, pharmaceutical products, and land transport vehicles.

Currently, import tariffs are in fact the main instrument of protection of the domestic economy. The main objectives of the Kazakhstan customs tariffs are:

- (1) Rationalization of the structure of import goods;
- (2) Establishment of conditions for progressive changes in the structure of national production and consumption;
- (3) Achievement of a reasonable balance between imported and domestic goods on the domestic market of Kazakhstan;
- (4) Improvement of the structure of the trade balance.

Current customs tariffs with effect from 2000 have a range of rates from 0 to 30 per cent (except ethyl alcohol which has a tariff of 100 per cent). These rates are applied to countries with which Kazakhstan conducts trade on a most favoured nation (MFN) basis. The rates are double for goods received from countries not enjoying MFN treatment. For certain categories of product, imported from developing countries, preferential treatment is granted, providing for reduction of rates by 25 per cent. The same goods originating from least developed countries are imported duty-free. Currently there is free trade with all the CIS-countries, excluding Turkmenistan. Basically, with due regard to international practice, the following structure of import customs tariff was chosen: raw and materials: 0-5 per cent; semi-processed products and completed products: 5-10 per cent; processed and manufacturing products 15-30 per cent. The average weighted import custom tariff was 9.9 per cent in 1997, 9.9 per cent in 1998, 8.9 per cent in 1999 and 9.8 per cent in 2000.

With the view to harmonize and simplify customs procedures and improve statistical records and exchange of statistical information, the country adopted the unified commodity nomenclature of foreign economic activity of the CIS

(HS) in 1997, based on the Harmonized System for describing and coding goods of the World Customs Organization.

Apart from customs duties, import goods are subject to excise duties and value added tax (VAT) like all goods produced in the domestic market. VAT rates on imports are equal to 20 per cent of the imposed customs value of the imported good. Excise rates are fixed and depend on the price of goods or physical volume. The list of goods subject to excise duties is insignificant. Excise taxes are uniformly and equally applied to domestic and imported goods.

Due to numerous facts of unwarranted manipulation of customs value of imports by entrepreneurs for the purpose to conceal or reduce taxable income, it was necessary to introduce a system of independent pre-shipment inspection of imported goods in 1996. This was carried out by the Swiss firm Societé Générale de Surveillance SA (SGS). The system of pre-shipment inspection was introduced in Kazakhstan with a view to receive complete customs payments and prevent an outflow of capital, which happens due to the rise in cost of goods. The system was also meant to allow customs bodies to collect customs payments in full on imported goods on the basis of customs value and proper classification of imported goods. However, due to lack of the anticipated results, inspection was abolished.

Kazakhstan maintains a licensing system for import and export of a limited range of goods: medicine, narcotic and psychotropic drugs, code devices and others. Goods like armament and military engineering, as well as inputs required for their production, nuclear engineering, technologies, equipment and installations, sources of radioactive radiation are also subject to licensing, and require approval from the Government. Other goods in the list subject to licensing are export goods which are regulated by international obligations of Kazakhstan (textiles, steel product). Licenses are issued by the Ministry of Economy and Trade, except licenses for import of ethyl alcohol and alcohol products, which are issued by the Committee for State Control over the Production and Turnover of Alcoholic Products of the Ministry of State Revenues of Kazakhstan.

The approved procedures for the issuance of licenses for imports and exports are formulated in such a way to create more favourable conditions for conducting foreign trade and harmonize the licensing system with international norms and rules.

With regard to the import of goods, economic measures of regulation (customs tariff and taxes) are supplemented by obligatory certification for the purpose of safety and conformity with Kazakhstani standards. The laws of Kazakhstan on Standardization, and on Certification were adopted to create favourable

conditions for entrepreneurship activity, trade and economic relations with foreign countries, and to remove technical barriers to trade.

In 2000 the Government of Kazakhstan identified the priorities of trade policy of the country, prepared for accession of the country to the WTO, and participated in negotiations to expand regional economic cooperation arrangements such as the CIS, Customs Union, and Central Asian Economic Union (CAEU). In the same year, the European Union classified Kazakhstan as a market economy with regard to issues of regulation of antidumping procedures.

The Government also strengthened market protection in favour of Kazakhstani commodity producers and customs duty rates on some goods were increased, demand for which could be met to some extent by domestic production (furniture, tyres, medicine gloves, barium sulfate and others). Customs duties on some types of raw materials and inputs for the furniture and light industries were reduced. Export duties on raw materials for light industry (e.g. leather and wool) exported to other member countries of the Customs Union, abolished in 1996, were reintroduced in 2000 with a view to support the domestic commodity producers. Export duty rates were fixed and export licenses were introduced for products like wastes, copper scrap and unrefined aluminum.

In order to create reserves of mazut (a fuel liquid) and diesel fuel to cater to domestic demand, temporary restrictions on the export of diesel fuel and temporary prohibition of mazut export were established. The restrictions are meant to increase production of domestic oil and stabilize prices in the domestic market.

In addition, the country adopted the Law on State Control of Application of Transfer Prices which spelled out new measures to control the practice of transfer pricing which had led to the loss of state income from the operations of Transnational Corporations (TNCs). The law identifies the transactions subject to control and procedures and methods for the determination of the market price.

In order to protect consumers' rights and provide full and reliable information of goods, and protect the domestic market from imports of sub-quality products, certain categories of import products were submitted to an obligatory marking in the national and Russian languages.

Keeping in mind the purpose of expanding export markets and reaching agreements with the European Union on trade and textile trade, the Government adopted various resolutions governing the licensing of exports of steel and textiles.

Within the framework of the Customs Union, Kazakhstan signed an Agreement on General Customs Tariffs, which determined the main elements and methods for the establishment of a unified tariff policy. It also identified a Base List of General Customs tariffs, listing goods subject to same rates of import duty imposed by Belarus, Kazakhstan and the Russian Federation. The list includes goods covering 63 per cent of commodity classification codes of foreign trade activity of the CIS. Import duty rates are determined for a period of six months and revised on the basis of mutual consent of the parties. Recognizing the different levels of economic development of the Customs Union member states, each country has the right to maintain a list of sensitive goods which do not exceed 15 per cent of aggregate import cost for each state.

In conclusion, Kazakhstan, in the course of reforming its economy, established the essential fundamentals for conducting market-based foreign trade over the last decade, but has recently reimposed some protectionist measures.

(iii) Intellectual property rights

Kazakhstan maintains a reasonable system for the regulation of property in general and for intellectual property in particular. However, in order to anticipate the implementation of WTO requirements upon accession, amendments to the current legislation need to be made. For this purpose, a Special Section of the Civil Code of the Republic of Kazakhstan was adopted which deals with intellectual property rights. A new patent law, the Law on Trade Marks, Service Marks, and Appellations of Places of Rules of Origin of Goods, conforming to global patent legislation, and laws on Copyright and Neighbouring Rights, Protection of Selective Breeding Achievements, Legal Protection of Layout Designs of Integrated Microcircuits were passed. In other legislations, a number of provisions were brought in line with the requirements of international agreements in the area of intellectual property rights protection.

In order to put a stop to illegal use and copying of products of neighbouring countries particularly products in the audio- and audiovisual area ("pirating"), coordination of justice bodies, internal affairs, tax and customs services in curbing the distribution and import of illegal products is envisaged. In order to provide practical assistance to law enforcement bodies, a Method System of defining counterfeit audio- and audiovisual product exists.

As of today, Kazakhstan is a participant in the World Convention on Copyright and Bern Convention on Protection of Literary and Artistic Productions. In 1993 Kazakhstan signed a Declaration on International Treaties in the area of protection of industrial property. In addition, Kazakhstan is a full member of the World

Intellectual Property Organization (WIPO) and a number of international conventions and treaties, such as the Paris Convention on Protection of Industrial Property, Eurasian Patent Convention, Madrid Agreement on International Trade Marks and others. Action is being taken to join the following international agreements in the area of protection of intellectual property: Budapest Treaty on International Recognition of Depositing of Microorganisms for patent procedures; Nice Agreement on International Classification of Goods and Services for the registration of trade marks, Locarno Agreement on Establishing International Classification of Industrial Samples, Strasbourg Agreement on International Patent Classification, Treaty on Laws on Trade marks, intergovernmental agreement of the CIS-countries on Cooperation on Curbing Infringements in the Area of Intellectual Property, Measures for Preventing and Ending the Use of False Trade Marks and Geographic Indications. Kazakhstan has various authorized bodies in the area of intellectual property: the Republican State Enterprise on Patent and Trade Marks (Kazpatent) and the Committee on Intellectual Property Rights (formerly Committee on Copyrights and Neighbouring Rights).

Despite the fact that the above-mentioned measures ensure that national legislation in the area of intellectual property rights protection conforms to international standards, the enforcement and implementation of the legislation is still facing problems, in particular with regard to pirating and the sale of imported goods with false trade marks.

(b) *Analysis of foreign trade*

As a result of the foreign economic policy of the country, the trade balance has steadily improved over the last five years and turned positive in 1999 (table 41).

Table 41. Trade balance of Kazakhstan, 1995-1999

(US\$ billion)

	Export	Change on previous year, per cent	Import	Change on previous year, per cent	Commodity circulation	Trade balance	Export/import, per cent
1995	5 664.3	157	5 386.7	129	10 551	-222.4	96
1996	6 291.7	122	6 626.7	123	12 909.6	-326.3	95
1997	6 768.5	107.5	7 175.6	108	13 922.4	-954.4	95
1998	5 838.7	85	6 588.8	92	12 427.5	-750.1	87
1999	5 933	101.6	5 737	87	1 1670	196	103

Source: Agency of the Republic of Kazakhstan for Statistics.

The main trading partners of Kazakhstan have traditionally been China, Germany, Netherlands, the Russian Federation and Uzbekistan (tables 42 and 43).

The Government has managed to achieve a stable exchange rate and eliminate short-term currency fluctuations as a result of the implementation of indirect monetary policy instruments such as the issuance of short-term notes by the National Bank of Kazakhstan, which together with currency interventions also serve to control the money supply. From the moment of introduction till mid-1997, the tenge devaluated in relation to the US dollar by 163 per cent. A significant depreciation of the tenge occurred in 1994, and during 1995-1996 on an annual average by 15 per cent. However, the exchange rate during that period had little influence on exports because of the specific characteristics of the Kazakhstan economy (figure 3).

These characteristics included the following: First and foremost, the main export producing enterprises of the country were less dependent on the domestic market for their inputs and capital, which were mostly imported. Secondly, the exchange rate didn't affect the volume of exports due to the low domestic prices in comparison with world ones. Domestic prices were low as a result of relatively low labour costs and the absence of expenses for environmental protection which boosted exports. Wholesale prices of Kazakhstani oil in 1996 were on average around \$ 60 per ton, while average export price of Kazakhstani oil ranged between \$ 70-103 per ton (with world prices fluctuating between \$ 105-145. As a result of low prices, reserves were depleted in some cases and export earnings were not able to cover the rising expenses associated with increasing transport prices. Thus, the liberalization of the exchange rate, including full convertibility of the current account and liberalization to the trade sector originally resulted in a consistent negative trade balance of the country.

In 1998, foreign trade was characterized by falling turnover by 13 per cent, as a result of a decline in exports by 15 per cent and imports by 8 per cent. Exports were further hampered by a continuing decline in world prices of the main export products of Kazakhstan and a fall in world demand for oil, ferrous and non-ferrous metals, grains and other products. In addition, the fall in the Russian rouble rate also negatively affected the financial situation of domestic producers exporting to the Russian Federation.

Because of the predominance of mineral and raw materials in Kazakhstan's export structure, exports can only grow if demand for these commodities in the world markets is favourable. However, the recent financial crisis in Asia and resulting decline in Kazakh exports in 1999 once again revealed the vulnerability

Table 42. Export structure by the increasing total on groups of the commodity nomenclature and countries in per cent

Commodity	Commodity group	1994	1995	1996	1997	1998	1999	2000
27	Fuel, oil products	29.4	24.9	32.9	34.1	38.7	40.9	52.8
72	Ferrous metals	18.6	20.2	14.8	14.6	14.4	15.8	12.9
74	Copper and copper products	13.1	11.7	10.5	10.8	10.9	10.3	8.1
28	Inorganic chemicals	8.4	7.7	6.7	5.4	4.6	5.8	4.2
10	Grain	2.9	5.9	7.3	7.9	5.5	5.6	5.5
71	Precious metals**	0.05	0.2	0.4	2.0	4.3	5.1	4.2
79	Zinc and zinc products	3.5	2.8	2.5	3.4	3.4	2.9	2.2
26	Ores, slag and cinders	2.4	2.7	2.3	3.8	4.4	2.1	1.9
84	Reactors, machinery	2.1	1.8	2.6	1.7	1.1	1.3	1.0
25	Salt, sulphur, stone	1.9	1.6	1.7	1.0	1.2	0.9	0.5
52	Cotton	1.3	0.9	1.7	1.3	1.0	0.9	0.9
	Commodity groups above	83.7	80.4	83.3	86.0	89.7	91.6	94.1
	Others	16.3	19.6	16.7	14.0	10.3	8.4	5.9
	Total trade	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Countries								
	CIS	58.0	54.9	53.8	45.9	39.3	26.1	26.2
	– Russian Federation	44.5	45.1	42.0	35.2	28.9	19.8	19.5
	– Ukraine	4.0	2.3	3.6	4.7	4.9	2.1	2.9
	– Uzbekistan	3.6	2.9	4.9	2.3	2.2	1.2	1.5
	– Kyrgyzstan	1.9	1.4	1.9	1.0	1.2	1.1	0.6
	– Other CIS-countries	4.0	3.2	1.4	2.7	2.1	2.0	1.5
	European Union	15.4	21.3	18.5	26.3	31.6	22.9	22.7
	– Netherlands	7.7	9.7	5.1	3.1	5.1	2.9	2.6
	– Germany	2.3	3.3	3.1	5.4	5.3	5.9	6.2
	– United Kingdom	2.0	2.1	3.9	8.4	9.0	3.4	2.5
	– Italy	1.3	2.7	3.3	5.5	9.2	7.5	9.8
	– Other EU-countries	2.1	3.4	3.1	3.8	3.0	3.2	1.6
	Other countries	26.6	23.8	27.7	27.8	29.1	50.9	51.2
	– China	4.6	5.7	7.8	6.8	7.2	8.5	7.3
	– United States	2.3	0.8	1.0	2.1	1.4	1.4	2.3
	– Turkey	1.5	1.3	0.9	1.6	1.8	0.6	0.7
	– Switzerland	4.0	3.6	3.6	4.4	6.1	5.3	5.3
	– Others	14.1	12.4	14.5	12.9	12.6	35.1	35.5
	Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Agency of the Republic of Kazakhstan for Statistics (ARKS, formerly NSA).

• According to the harmonised system.

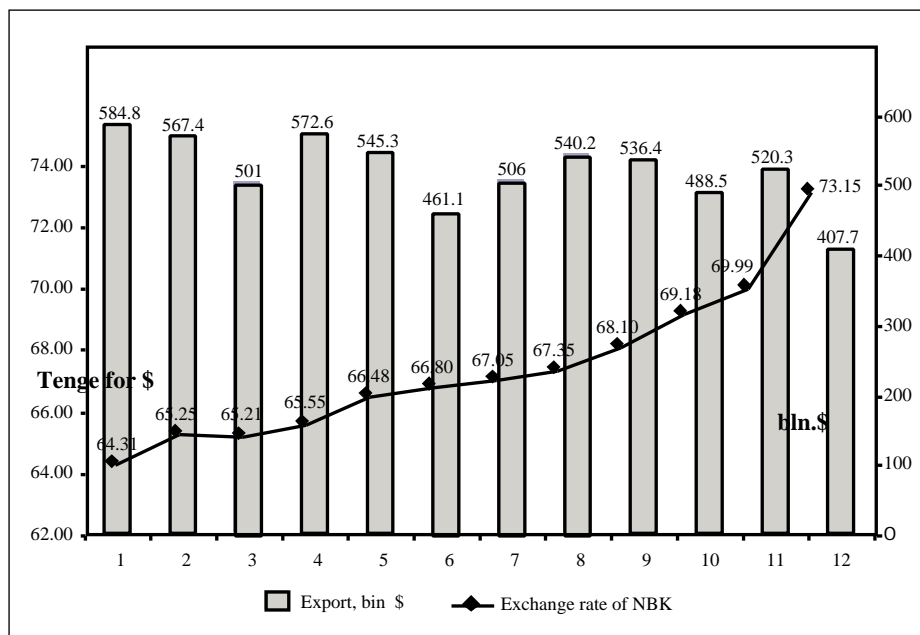
** Including precious and semiprecious stones.

Table 43. Import structure by the increasing total on groups of the commodity nomenclature and countries in per cent

Commodity	Commodity group	1994	1995	1996	1997	1998	1999	2000
27	Fuel, oil products	29.4	25.0	19.0	14.6	14.6	9.3	11.3
84	Reactors, machinery	12.5	13.6	12.3	15.6	15.7	18.0	18.8
85	Electrical equipment	7.7	6.2	6.9	7.8	7.9	8.4	8.8
87	Vehicles	6.7	5.6	7.1	6.0	5.8	9.7	8.8
73	Ferrous metal products	3.8	4.3	6.2	6.0	7.4	6.0	6.4
17	Sugar and confectionery	2.0	3.3	3.3	3.1	2.8	2.7	2.2
40	Rubber, rubber products	1.4	2.3	4.0	2.3	1.5	1.4	1.8
28	Inorganic chemicles	1.1	2.3	2.4	2.4	2.3	1.8	3.4
90	Optical devices	1.5	1.9	1.6	2.1	2.1	2.6	2.6
72	Ferrous metals	2.0	2.0	2.9	2.5	2.2	1.6	2.2
48	Paper and carton	1.0	1.8	2.2	2.2	2.1	2.1	2.2
22	Alcohol, soft drinks	1.6	1.2	2.5	2.8	0.9	0.5	0.4
	Commodity groups above	70.7	69.6	70.4	67.3	65.3	63.9	68.7
	Others	29.3	30.4	29.6	32.7	34.7	36.1	31.3
	Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Countries								
	CIS	61.1	69.7	69.5	54.1	47.2	43.3	54.6
	– Russian Federation	36.3	49.9	54.8	45.9	39.4	36.7	48.7
	– Ukraine	3.4	2.3	2.2	2.2	2.2	1.6	1.6
	– Uzbekistan	7.8	7.1	2.1	1.5	2.3	2.4	1.4
	– Belarus	1.8	2.0	2.8	1.4	1.4	1.1	0.8
	– Other CIS-countries	11.9	8.4	7.5	3.2	1.9	1.6	2.1
	European Union	16.5	12.9	13.1	21.6	23.9	25.3	20.1
	– Germany	8.2	5.2	4.7	8.6	8.6	7.8	6.6
	– United Kingdom	1.9	2.2	1.8	3.3	5.0	6.3	4.3
	– Italy	1.7	0.8	1.0	2.0	2.1	2.9	3.1
	– Finland	0.4	0.8	1.3	1.6	1.7	1.3	1.1
	– Other EU-countries	4.2	4.0	4.3	6.1	6.5	7.0	5.0
	Other countries	22.4	17.4	17.5	24.3	28.9	31.4	25.3
	– China	2.0	0.9	0.8	1.1	1.2	2.2	3.0
	– United States	3.1	1.7	1.6	4.7	6.3	9.5	5.5
	– Turkey	2.4	3.2	3.6	4.1	4.8	3.0	2.8
	– Republic of Korea	1.9	1.1	2.1	3.0	2.4	1.3	1.6
	– Others	13.0	10.4	9.4	11.4	14.2	15.3	12.3
	Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Agency of the Republic of Kazakhstan for Statistics (ARKS, formerly NSA).

- According to the harmonised system.



Source: Agency of the Republic of Kazakhstan for Statistics.
NBK = National Bank of Kazakhstan.

Figure 3. Exchange Rate of Tenge and Exports of Kazakhstan in 1996

of the export structure of the country. With a rebound of the world market for raw materials in mid-1999 and the establishment of a flexible exchange rate regime in April 1999, exports started to recover, imports slowed and the trade balance started to improve. Imports declined as a result of a fall in imports of oil and oil products from the Russian Federation and other CIS states. However, the share of machinery and energy equipment in total imports increased by 2.3 and 0.5 per cent respectively in 1999 compared with 1998. In addition, imports of mineral resources from CIS countries also increased while imports of building materials, finished food products and wood processing products from non-CIS countries declined.

Kazakhstan continued to restructure its foreign trade away from CIS countries. Exports to non-CIS countries increased from 60.7 per cent of total exports in 1998 to 73.9 per cent in 1999, while exports to CIS countries declined from 39.3 per cent in 1998 to 26.1 per cent over the same period, mainly as a result of a fall in exports to the Russian Federation due to the decline in the value of the Russian rouble. However, the Russian Federation has continued to be one of the

main trading partners of Kazakhstan and accounted for 26.5 per cent of total trade turnover in 1999 (down from 34 per cent in 1998).

Imports declined by 18 per cent in 1999, mainly as a result of a decline in imports by 25 per cent from CIS countries. In 1999, the Russian Federation continued to be the main supplier of raw and materials to Kazakhstan and accounted for 36.7 per cent of total imports. The share of imports from non-CIS countries rose from 52.8 per cent in 1998 to 56.7 per cent in 1999, mainly due to declining imports from Germany by 33 per cent and Finland by 34 per cent, and as a result of a decline in so-called "chelnoki" trade ("chelnoki" or shuttle trade refers to shop-tourists which accounts for nearly 40 per cent of official imports but are almost negligible for exports).

In 1999 for the year as a whole and for the first time, a positive trade balance of \$340 million emerged as a result of:

- (1) Growth of exports and increase in industrial production, mainly in the second half of 1999;
- (2) A further devaluation of the national currency, which contributed to lower production costs and higher level of competitiveness on world markets;
- (3) Favourable world market prices of raw materials and commodities, including oil;
- (4) Sharp reduction in imports as a result of the currency devaluation and increase in domestic production as a result of protectionist measures for domestic food producers.

As a result of these factors, exports grew in 1999 by 2 per cent compared with a decline of 15 per cent in 1998.

Kazakhstani goods had suffered from low exports due to relatively low competitiveness and low domestic demand due to imports of cheap goods of relatively better quality. As a result, production of light, chemical and petrochemical industries, and machinery declined during the period 1993-1998. This problem has hampered effective integration into the world economy of the country despite the potential to produce and export high quality products. In 1999, measures were taken to adopt a more pragmatic trade in the national interest, including restrictions on imports of food products and some other products of a technical nature.

With the view to protect domestic producers from cheap imports (dumping), the Government adopted the laws on Measures of Protection of the Domestic Market from Importing Goods, Anti-Dumping Measures, and Subsidies and Compensation Measures. An authorized Anti-Dumping Committee was set up under the Ministry of Economy and Trade to control dumping. At the same time, as part of the strategy to expand overseas markets, Kazakhstan won antidumping proceedings with the United States and antidumping duties were removed on titanium sponge, uranium product and ferrosilicon. Antidumping duties were also removed in the European Union on ferrosilicon and ferrochrome. In order to protect domestic producers and reduce imports from developing countries, Kazakhstan reviewed and cut trade preferences to developing countries. An agreement was reached with the European Coal and Steel Association on trade in steel, which promoted exports of Kazakhstan steel to European markets.

The introduction of a floating exchange rate regime improved the trade balance of the country. Restoration of the competitiveness of Kazakhstani export and higher world prices of oil, continued to increase the foreign trade turnover of the country in 2000 by 52.7 per cent over 1999 to US\$ 14.2 billion. Overall export growth by 62.5 per cent allowed Kazakhstan to achieve a favorable trade balance, which amounted to US\$ 4.1 billion, compared to \$1.5 billion in 1999. China, the European Union, the Russian Federation, Turkey and the United States and some other countries continued to be Kazakhstan's main trade partners and exports to these countries generally increased. The commodity structure of export has also not changed. Oil (52.8 per cent of total exports), ferrous and non-ferrous metals (26 per cent), grain and cotton (6.4 per cent) continue to dominate the export sector (tables 44 and 45). Exports to non-CIS countries expanded by 63.4 per cent in 2000. Non-CIS countries accounted for 73.8 per cent of total exports in 2000, including: Bermuda Islands (14.9 per cent), China (7.4 per cent), Germany (6.3 per cent), Italy (9.8 per cent), Virgin Islands (11.6 per cent). Oil and metals were the main export items to these countries. At the same time, the share of machinery, equipment, transport vehicles, devices and apparatus in total imports from non-CIS countries amounted to 57.1 per cent.

Foreign trade turnover in 2000 with CIS countries rose by 68.5 per cent to \$5.2 billion. CIS-countries are main importers of mineral resources and food products, especially flour-grinding and milling industry. CIS countries still accounted for 54.6 per cent of imports in 2000 with the Russian Federation alone accounting for 48.7 per cent as a result of favourable prices of Russian industrial goods. The CIS-countries were the main suppliers of mineral products – 85.2 per cent, chemical industry products – 57.7 per cent, and metallurgical industry products – 63 per cent.

Table 44. Export structure by the increasing total on groups of the commodity nomenclature and countries, 1999-2000

Commodity	Commodity group	1999		2000		2000/1999
		\$bn	per cent	\$bn	per cent	per cent
27	Fuel, oil products	2 287.8	40.9	4 826.7	52.8	211.0
72	Ferrous metals	885.5	15.8	1 178.3	12.9	133.1
74	Copper and copper products	576.0	10.3	737.6	8.1	128.1
28	Inorganic chemicals	323.2	5.8	383.5	4.2	118.7
10	Grain	313.6	5.6	500.5	5.5	159.6
71	Precious metals**	285.5	5.1	383.5	4.2	134.3
79	Zinc and zinc products	163.1	2.9	198.8	2.2	121.9
26	Ores, slag and cinders	116.8	2.1	177.4	1.9	151.9
84	Reactors, machinery	70.1	1.3	88.5	1.0	126.3
25	Salt, sulphur, stone	48.6	0.9	42.1	0.5	86.6
52	Cotton	51.5	0.9	81.1	0.9	157.5
	Commodity groups above	5 121.6	91.6	8 597.9	94.1	167.9
	Others	470.6	8.4	541.5	5.9	115.1
	Total trade	5 592.2	100.0	9 139.5	100.0	163.1
Countries						
	CIS	1 461.4	26.1	2 390.4	26.2	163.6
	– Russian Federation	1 107.6	19.8	1 783.9	19.5	161.1
	– Ukraine	115.0	2.1	268.6	2.9	233.5
	– Uzbekistan	66.4	1.2	139.2	1.5	209.6
	– Kyrgyzstan	59.5	1.1	58.5	0.6	98.3
	– Other CIS-countries	112.8	2.0	140.2	1.5	124.3
	European Union	1 283.4	22.9	2 073.8	22.7	161.6
	– Netherlands	161.2	2.9	240.0	2.6	148.9
	– Germany	332.5	5.9	566.6	6.2	170.4
	– United Kingdom	189.1	3.4	231.0	2.5	122.2
	– Italy	418.9	7.5	891.9	9.8	212.9
	– Other EU-countries	181.7	3.2	144.3	1.6	79.4
	Other countries	2 847.4	50.9	4 675.3	51.2	164.2
	– China	473.1	8.5	670.3	7.3	141.7
	– United States	80.6	1.4	211.0	2.3	261.6
	– Turkey	36.2	0.6	64.3	0.7	177.6
	– Switzerland	296.7	5.3	488.1	5.3	164.5
	– Others	1 960.8	35.1	3 241.6	35.5	558.0
	Total	5 592.2	100.0	9 139.5	100.0	163.4

Source: Agency of the Republic of Kazakhstan for Statistics (ARKS, formerly NSA).

• According to the harmonised system.

** Including precious and semiprecious stones.

Table 45. Import structure by the increasing total on groups of the commodity nomenclature and countries, 1999-2000

Commodity	Commodity group	1999		2000		2000/1999
		\$bn	per cent	\$bn	per cent	per cent
27	Fuel, oil products	341.1	9.3	572.0	11.3	167.7
84	Reactors, machinery	661.2	18.0	947.7	18.8	143.3
85	Electrical equipment	308.0	8.4	443.5	8.8	144.0
87	Vehicles	356.7	9.7	441.6	8.7	123.8
73	Ferrous metal products	220.6	6.0	321.1	6.4	145.5
17	Sugar and confectionery	98.0	2.7	111.2	2.2	113.4
40	Rubber, rubber products	52.1	1.4	88.5	1.8	169.7
28	Inorganic chemicles	64.5	1.8	170.0	3.4	263.7
90	Optical devices	96.7	2.6	130.0	2.6	134.4
72	Ferrous metals	57.3	1.6	111.5	2.2	194.6
48	Paper and carton	77.7	2.1	111.4	2.2	143.3
22	Alcohol, soft drinks	18.9	0.5	20.9	0.4	110.4
	Commodity groups above	2 353.0	63.9	3 469.4	68.7	147.4
	Others	1 329.8	36.1	1 582.7	31.3	119.0
	Total	3 682.7	100.0	5 052.1	100.0	137.2
Countries						
	CIS	1 594.4	43.3	2 757.3	54.6	172.9
	– Russian Federation	1 350.6	36.7	2 459.8	48.7	182.1
	– Ukraine	59.2	1.6	79.8	1.6	134.9
	– Uzbekistan	86.7	2.4	73.2	1.4	84.4
	– Belarus	39.0	1.1	39.9	0.8	102.4
	– Other CIS-countries	58.9	1.6	104.6	2.1	177.5
	European Union	931.9	25.3	1 016.3	20.1	109.1
	– Germany	287.6	7.8	333.7	6.6	116.0
	– United Kingdom	232.9	6.3	219.4	4.3	94.2
	– Italy	107.1	2.9	115.0	3.1	144.8
	– Finland	46.6	1.3	57.4	1.1	123.1
	– Other EU-countries	257.7	7.0	250.8	5.0	97.3
	Other countries	1 156.4	31.4	1 278.5	25.3	110.6
	– China	81.4	2.2	154.0	3.0	189.1
	– United States	348.7	9.5	276.9	5.5	79.4
	– Turkey	112.2	3.0	142.6	2.8	127.1
	– Republic of Korea	48.8	1.3	82.5	1.6	169.1
	– Others	565.3	15.3	622.5	12.3	110.1
	Total	3 682.7	100.0	5 052.1	100.0	137.2

Source: Agency of the Republic of Kazakhstan for Statistics (ARKS, formerly NSA).

- According to the harmonised system.

3. Process of accession of Kazakhstan to the WTO

(a) Objectives of accession

Accession of Kazakhstan to the WTO is part of the general strategy of trade policy of Kazakhstan, which is directed to effective integration of the country into the world economy and global trading system and serves the following particular purposes:

- (1) Application of best practices and non-discriminatory conditions for access of Kazakhstani goods and services to foreign markets;
- (2) Promoting development of export opportunities of the country and diversification of the country's exports;
- (3) Ensuring a sufficient degree of protection of domestic producers within the framework of a reasonable open economy and on the basis of norms and rules of the WTO.

The main advantages of Kazakhstan's membership in the WTO are the following:

- (1) Creation of more favourable, non-discriminatory, stable and predictable conditions for the development of foreign trade;
- (2) Access to the mechanism of the WTO for settlement of trade disputes as a very efficient mechanism for the protection of trade interests of Member Countries of the organization;
- (3) Introduction of international norms and rules of WTO into the Kazakhstani legislation and corresponding practices in foreign trade activity.

Accession of Kazakhstan to the WTO is not an aim by itself, and membership should not be achieved at any cost. The most important condition for membership is an improvement in its trade and political regime and proper balance of rights and obligations of the country in the WTO. In addition, it is necessary to consider that the real terms of integration of Kazakhstan into the world economy, including efficient use of advantages of membership in the WTO, will be determined, first of all, by the long-term development perspectives of the Kazakhstani economy as a whole. These perspectives, in turn, will depend on how successful the country is in overcoming domestic economical crises in some industrial sectors and in completing the market reforms. Only then, Kazakhstan will be able to compete with developed countries on an equal basis. However, in meeting the interests of

existing WTO members, the long-term interests of Kazakhstan should not be unduly compromised.

The benefits from WTO membership mainly arise from improved access to international markets but may only be perceived in the long run, and then only if the country has developed a competitive export sector, improved coordination among concerned government agencies strong enough to protect the rights and interests of the country in the complicated system of the WTO, created dynamic commodity producers who are able to realize their commercial benefits from WTO membership.

(b) Review of the negotiations for accession

Kazakhstan's accession process started on 26 January 1996, when the country submitted its official application to the Secretariat of the WTO.

In order to coordinate the activities in connection with the accession process, an Interdepartmental Commission of the Republic of Kazakhstan (IDC) was set up, led by the overall coordinator of the accession process, the Ministry of Economy and Trade. In June 1996, IDC prepared and sent the Memorandum on Foreign Trade Regime of Kazakhstan and other obligatory documents to the Secretariat of the WTO. In the same year, Kazakhstan received observer status in the WTO.

The preparations for accession to the WTO in the country are undertaken along four main directions:

- (1) Preparation and presentation of obligatory documents to the WTO Secretariat;
- (2) Adapting national legislation to international norms and rules;
- (3) Human resource development;
- (4) Conducting consultations with member-countries of the Customs Union in issues of accession to the WTO;
- (5) Conducting bilateral and multilateral negotiations with WTO members in the Working Group.

Negotiations on accession of Kazakhstan to the WTO are in process within the framework of the Working Group, set up in 1996. The Chairman of the group is Mr. P. Huhtaniemi, Ambassador of Finland to the United Nations Office in Geneva. About 30 member-countries of WTO are participating in the Working Group. To date, 3 sessions of the Working Group were held (March and October 1997, October 1998).

The Working Group sessions addressed in detail the economic and foreign trade regime of Kazakhstan in order to ensure that they conform to norms and rules of WTO, including legislation not subject to principal remarks from member-countries. The country provided detailed explanations to questions of some provisions of the Memorandum. Most questions related to: price regulation, taxation system, subsidies in some sectors of economy, treatment of foreign investment, import licensing, non-tariff regulation, system of customs valuation, system of standardization and certification of imported goods, sanitary and phyto-sanitary measures, system of protection of intellectual property rights, export regulation, issues of legislation in the area of foreign economic relations, and issues related to possible conflict of Kazakhstan's membership in regional economic cooperation frameworks such as the Free Trade Area, the CIS, and Customs Union with WTO membership.

There have also been two rounds of bilateral negotiations with delegations of Australia, Bulgaria, Canada, Czech Republic, European Union, Germany, India, Japan, Mexico, Slovak Republic, Switzerland and the United States on the primary proposals of Kazakhstan regarding access to its market and information on its measures for internal support of agriculture. In general, the Kazakhstani proposals were not acceptable by the developed countries and met with a number of remarks and proposals of a rather strict nature and similar to those received by other countries having recently completed the accession process. In the area of the trade regime of goods and services the following demands were made at the bilateral meetings:

- (1) Commitment to maintain current trade conditions and avoidance of new limitations until the moment of accession, although there is no such standard requirement in WTO Agreements;
- (2) Significant lowering of imported tariffs from the current level of the tariff base;
- (3) Accession of Kazakhstan to additional agreements, achieved after the conclusion of the Uruguay Round by interested countries including liberalization of customs tariffs in some sectors, i.e. introduction of zero rates on import of technological equipment, chemical and pharmaceutical products (so-called sectoral agreement);⁸⁵
- (4) Unifying excise rates on domestic production and import of tobacco and alcohol products, and cars.

⁸⁵ The "zero for zero" agreement has a limited number of participants who agreed to import goods free of duties except for selected chemical products covered by the Agreement on Chemical Harmonization.

In case Kazakhstan changes its tariff rates in the future, some countries demanded the primary rights for consultation. A detailed explanation of Kazakhstan's aggregate measures of support (AMS) to the agricultural sector was requested as well as increased access to its market for services such as operating commercial, telecommunications, health, social and financial services, construction, services for environment protection, and travel and transport services. Originally, Kazakhstan had not assumed obligations in these areas because the domestic sector would not be able to cope with the competition and the required regulatory framework was not fully in place. However, after full consideration of the remarks and proposals of the WTO Member Countries, Kazakhstan is prepared to further discuss balanced proposals for the liberalization of the telecommunications, banking and financial services sectors.

With reference to the agricultural sector, the aggregate support measures are the overall public expenditures for support measures in the agricultural sector and include support for the production of grain, cereal crops, potatoes, corn, sugar beets, fruit, cattle and sheep breeding, plant protection, farm's development and others.

During the negotiations Kazakhstan made various offers in the area of tariff reductions, liberalization of services and presented its offers on market access for goods which can be divided into 2 groups: agricultural products and other products.

- (1) Agricultural products: More than 80 per cent of the tariff nomenclature for agricultural products were revised and significantly reduced. The number of tariff peaks has been considerably decreased. The implementation period for all tariff positions has been also reduced.
- (2) Industrial products: Kazakhstan took into consideration requests of the WTO members and offered to bind import customs duties on all industrial products. More than 70 per cent of the tariff nomenclature were revised and significantly reduced. The implementation period has been reduced for final tariff binding on industrial products.

With respect to industrial goods, Kazakhstan offers were made with respect to three main product categories:

- (1) The first category of goods includes textile, light industry. In respect of goods of this category Kazakhstan has offered to bind the rates of import customs duties at relatively high level to ensure adequate protection for domestic producers;

- (2) As to the second category of goods which cover the majority of tariff lines, Kazakhstan has offered to bind the tariffs at a lower level. This includes mineral raw materials, products of ferrous metallurgy, chemical products and others;
- (3) Partial participation in selected sectoral agreements (on Chemical Harmonization and Paper).

The list of commitments on services is reviewed to take into account, to a maximum possible extent, the economic capacity of Kazakhstan, the comments received from Canada, the European Union and Switzerland in respect of the initial offers. Modifications are made on commitments in the areas of auditing, telecommunication, constructions, insurance and banking services as well as changes of an explanatory nature with regard to restrictive measures and commitments in certain sectors (legal, trading services, education, tourism and transportation).

In addition, commitments in eight new sub-sectors of banking services and in 15 new sub-sectors in the area of construction and building services have been assumed. Concessions were also made in the legal and tourist services sector taking into account comments of the WTO Member States and others.

(c) *Current status of accession*

Since the third and last session of the Working Group on accession of Kazakhstan to WTO (October 1998) Kazakhstan has made progress on implementing its commitments made at the previous working group meeting. In particular, efforts and discussions are focusing on three areas: (1) the terms and conditions under which foreign suppliers would have access to the market of goods and services of Kazakhstan; (2) working out optimal level of international specialization and competitiveness; (3) improvement of state management of the foreign trade regime in accordance with provisions of WTO Agreements. More specifically, Kazakhstan faces the task of clearly defining its position on obligations it is willing to accept upon accession with the view to enjoy full membership rights in the international trading system.

In this context, the country sent to the Secretariat of WTO and interested Member Countries of the WTO the following:

- (1) In November 1999, new proposals on access to the market of services of Kazakhstan were submitted, including a list of obligations the country was prepared to take on with maximum possible regard given to the remarks received from Canada, the European Union and Switzerland to the primary proposals submitted by the country, in

particular in the areas of posts, telecommunications, construction, insurance and banking services (see above);

- (2) In April 2000, new proposals on access to the market of imported goods in Kazakhstan were submitted, including lower tariffs than those proposed in the second version of August 1998 (see above);
- (3) A package of documents on agriculture, containing aggregated measures of support to agriculture for 1996-1998, including export subsidies and import tariffs on agricultural product.

The state of agriculture in Kazakhstan faces huge difficulties. In general, the sector is in decline, constituting 34 per cent of GDP in 1990 but only 8.4 per cent in 1999. Currently, agricultural production constitutes only 20 per cent of the production volume of 1999. In order to create the required conditions for recovery, normal production and export potential of the agricultural sector, the following measures will be required:

- (1) Ensuring a sufficient level of tariff protection for agricultural products, especially those products which are of strategic importance, i.e. products which provide food security and which contribute to the growth and efficiency of agricultural production;
- (2) Application, in case of emergency, of special protective measures on certain product groups;
- (3) Application of measures of internal support and export subsidies;
- (4) A package of new legislative acts, brought into line with the WTO norms. In this context, various modifications were made to the current laws, most of which were reported to the WTO Secretariat. The following new laws were adopted, among others: on Measures for Domestic Market Protection against Import of Goods, on Subsidies and Compensation Measures, on Anti-Dumping Measures, on Protection of Selective Breeding Achievements, on Trade Marks, on Natural Monopolies, and on Quarantine of Plants;
- (5) Similar packages in the form of answers to the questions received from interested WTO Member Countries during the three sessions of the Working Group;
- (6) In response to additional inquiries, the following information packages were presented: on access to the market of services and the market of goods; technical barriers to trade (TBT); trade-related aspects of

intellectual property rights; and trade-related investment measures applicable in Kazakhstan;

- (7) Memoranda on taxation and privatization; and
- (8) Information about sanitary and phyto-sanitary measures in Kazakhstan.

In conclusion, significant and comprehensive information and answers were given to satisfy the questions received from WTO Member States, including those of the Working Group, in order to facilitate the bilateral and multilateral negotiations and remove the concerns of Kazakhstan's main trading partners, in particular the European Union and the United States.

In order to reactivate the negotiation process, the negotiation team Kazakhstan conducted a series of unofficial negotiations with the members of the Working Group (i.e. Australia, Bulgaria, Canada, Czech Republic, European Union, Georgia, India, Japan, Pakistan, Slovak Republic, Switzerland and the United States) in October 2000 in Geneva. The meetings were held at the WTO Secretariat chaired by Mr. P. Huhtaniemi and participated by the Director and adviser of the Accessions Division. At the meeting, information on the current economic situation in the country was provided in an oral presentation, with focus on outlining favorable tendencies in the development of the economy and explanations on the two year break in the negotiation process, which had mainly to do with the substantive activities efforts undertaken in connection with the relocation of the country's capital from Almaty to Astana. In order to facilitate the negotiation process and speed up the accession process, a brief review of actions of the Government of Kazakhstan was given to the Working Group members with the request to present written comments on the new proposals on goods and services and other presented documents. In so doing, it was emphasized that Kazakhstan was ready to advance its accession with due regard to the proposals its partners in the negotiation process in order to achieve an agreement which would balance the interests of all concerned. In accordance with the schedule of bilateral and multilateral negotiations at the WTO Secretariat, the fourth session of the Working Group on accession of Kazakhstan to WTO was postponed until June 2001.

4. Problems faced by Kazakhstan for effective accession

(a) Problems and difficulties faced during the negotiations

Accession to the WTO is much more complicated and difficult than joining GATT 1947. First and foremost, multilateral trade agreements under WTO contain more strict and detailed rules and norms for the regulation of trade in goods, and

extend coverage to areas such as trade in services and protection of intellectual property.

Secondly, the demands of the so-called “main trading Member States of WTO” to new potential members in the process of accession are ever increasing and becoming more and more stringent. For instance, countries like Australia, European countries and the United States argue that the aspiring WTO Member Countries, such as Kazakhstan, should assume commitments at a higher level than those of the existing members of WTO. This means that new WTO Member Countries were forced to agree to obligatory joining of agreements under the so-called “sectoral agreements”, as well as to tariff levels and commitments in the services sector which are sometimes more liberal than those of most developed member countries of WTO. Most illustrative in this regard are the terms of accession agreed to by countries like Ecuador, Kyrgyzstan, Mongolia and Panama which, according to many specialists, are very liberal indeed to the extent that they may not serve the interests of domestic producers. In addition, these countries made concessions and assumed commitment by joining some non-obligatory agreements of WTO with so-called “restricted number of participants” (e.g. Agreement on Government Purchases and Agreement on Civil Air-plane Engineering Trade). This has created precedents to harden accession terms for other countries aspiring to join the WTO.

The relatively swift accession of Kyrgyzstan to the WTO and qualitative terms and conditions for accession of Kazakhstan and other member countries of the Customs Union have created many problems and raised many issues regarding obligations and commitments made within the framework of Customs Union.

For instance, during the accession process of Kyrgyzstan, this country failed to notify the WTO Secretariat about the existing privileges available to Customs Union member countries with regard to access to the market of commodities and services. Currently, the uniform import duty rate in Kyrgyzstan is equal to 10 per cent. Upon entering WTO, Kyrgyzstan assumed commitments not to exceed the current duty rates, which, according to Kazakhstan, are not applicable to other Customs Union members.

According to WTO rules with reference to regional trading arrangements (RTAs) such as the CU, the more liberal commitments made upon accession take precedence to those made within the RTA. This means that any further liberalization within the framework of the CU should be based on the WTO commitments of Kyrgyzstan, as the only CU member of WTO, rather than on the existing schemes of the five states of the Customs Union (Belarus, Kazakhstan, Kyrgyzstan, the Russian Federation and Tajikistan).

The terms and conditions, under which Kyrgyzstan entered WTO, are very liberal and include commitments under practically all non-obligatory agreements and sectoral agreements. These commitments clearly restrict the opportunities for protection of and support for its agricultural sector. Kyrgyzstan offered full access to its services market for non-residents in many sectors, including the financial sector. And Kyrgyzstan undertook commitments not to exceed the current rates import tariffs. On the basis of Kyrgyzstan's commitments under WTO, import duties are 10-20 per cent lower than those proposed by Belarus, Kazakhstan and the Russian Federation on goods of strategic importance. If the other CU member countries reduced their tariffs to the level of Kyrgyzstan, they would not be able to provide reasonable protection for their national commodity producers.

Most likely, low tariffs on goods may increase socio-economic problems in Customs Union countries, such as increase in the flow of foreign foods and concomitant fall in production of domestic goods, weakening position of domestic producers, and others. Since there is free trade between Kazakhstan and Kyrgyzstan and they share a rather long border, the availability of low tariffs in Kyrgyzstan will allow the re-export of goods from Kyrgyzstan to Kazakhstan practically duty free or result in smuggling, which either way will cause Kazakhstan to lose revenue from duties and lead to the above-mentioned negative consequences. Kyrgyzstan also forfeited the right to subsidize export of agricultural products and assumed commitments on the use of measures of domestic support similar to those of developed countries: 5 per cent of the total cost of its main agricultural products, whereas for developing countries otherwise it is 10 per cent.

One can draw the conclusion, that entering WTO with such a liberal package of commitments will inevitably make it more difficult for other Customs Union countries to pursue an independent trade policy, or for other countries to enter the CU or take full part in the future activities of the CU.

The Council of Heads of Governments of the signatory member-states of a treaty on strengthening cooperation in economic and humanitarian areas between Belarus, Kazakhstan, Kyrgyzstan and the Russian Federation of 29 March 1996, adopted a resolution on 28 April 1998 calling for a unified approach of member-states of the Customs Union towards accession to WTO, which would enable the countries to work out a coordinated position on access to their markets for goods and services, and other important issues such as agriculture, sectoral tariff initiatives, and others. This coordinated effort would allow Customs Union countries more chances of success in the complicated struggle for accession, in particular as these countries have large domestic markets and are major importers

of finished products, and enable them to protect their interests in the world economy.

The accession process is made complicated due the fact that demands made on new acceding countries are higher than for those who joined WTO upon its establishment. As a result, agreeing with those demands could result in negative consequences for trade and socio-economic development of the country. In this connection it should be noted that Kazakhstan does not agree with this approach which would force it to accept WTO-Plus.⁸⁶

Apparently, WTO Member Countries are only prepared to accept accession of Kazakhstan to WTO on their terms and have little regard to the real problems and difficulties of the country. For instance, despite the fact that according to economic indicators Kazakhstan should be classified as a developing country, the demands for commitments would classify it as a developed country. The negotiations are difficult as their results will have direct implications for the operations of domestic industrial, agricultural and services enterprises, and affect the terms of competition of domestic with foreign companies in the domestic market and abroad. Industrialized developed countries with low average duty rates, set zero or minimum rates on imported raw materials, but raise those rates for import of finished industrial products, while duties on import of agricultural products (domestic production is subsidized) are raised to prohibitive levels effectively preventing imports from other countries. If Kazakhstan were forced to lower its average level of duties without doing making extensive efforts to improve its current tariff structure, producers would receive a double blow: while the domestic market is open to foreign competitors, domestic producers will face prohibitive barriers to export their own finished goods to the developed countries.

Accession of Kazakhstan to WTO will also require the country to lower State support to the agricultural sector, including a gradual reduction in import tariffs. In this context, it is important for Kazakhstan to define the minimum required level of tariff protection and compare this with the level in WTO member-countries, in order to maintain a certain flexibility in the near future.

It is difficult for Kazakhstan to determine the acceptable conditions for access of foreign goods and services to the domestic market. The country should be able to protect priority sectors to allow the development of their competitiveness, including "infant" industries producing new products and those industries which are not competitive in international markets but are essential for the country, such as food and other light industries, while at the same time assume commitments

⁸⁶ WTO-Plus means acceptance of the Uruguay Round Agreements PLUS the non-obligatory agreements with limited number of participants.

on liberalization of foreign trade and opening its domestic market. This is a complicated problem, particularly in a period when the country is recovering from recession and needs protectionist measures to support its economy.

Currently few services sectors are developed in Kazakhstan, as most of them are in the process of development. In some cases foreign suppliers of services enjoy more favourable conditions than domestic ones. For that reason it is important that Kazakhstan prepares a position in the negotiation process that would ensure necessary levels of protection for its domestic services sector, not only those in the process of development but also developed ones which are not immediately able to cope with foreign competition.

A major problem facing developing countries, including Kazakhstan is the obvious shortage of financial resources and professional personnel, which undermines those countries' abilities to undertake effective negotiations on such complex issues as those discussed as part of the accession process.

Apart from the complicated organizational and procedural issues inherent to the WTO and the accession process, Kazakhstan faces a number of difficulties resulting from structural and infrastructural backwardness and its isolated geographic location. While the countries in post-socialist Central and Eastern Europe take advantage from their proximity to Western Europe and have access to traditionally qualified labour and open trade with the European Union, Kazakhstan does not have those benefits.

While Kazakhstan is reorienting its trade relations towards developed and developing countries in the region, it is also renewing and supporting its traditional trading relations with the CIS countries by joining regional and subregional trading arrangements and other mechanisms for subregional economic cooperation. In this context, it is important to focus such subregional cooperation on exploiting economic complementarities in the processing of raw and semi-finished products on the basis of new technologies and technical standards. Only this way the dilemma between short- and medium term trade cooperation with the CIS countries within the framework of the Customs Union and long-term trade cooperation under the WTO can be solved.

(b) Obstacles and difficulties at national and international level

In spite of achieved successes, the economy of Kazakhstan is still facing protectionist measures against its exports of agricultural products, textiles and other kinds of industrial products, including quantitative restrictions and licensing requirements. This is a serious obstacle to its effective integration in the world trading system.

The European Union, the United States and some developing countries including Brazil, Columbia, India, Mexico and Venezuela apply restrictive measures on the imports of Kazakhstan goods to their markets, including anti-dumping measures, on the basis of Kazakhstan's classification as a country with a non-market economy. Products facing anti-dumping measures include ferrous and non-ferrous metallurgy, ferrosilicon, ferrochromium, titanium sponge, and high concentrated uranium.

Kazakhstan faces a major task in removing these external obstacles to its exports of raw materials, in particular as raw materials form the bulk of total exports (about 80 per cent). As such, domestic prices of raw materials should be the same as world market prices for these products to be competitive in world markets. At the same time, there is a justification for protection of the national economy from conditions in the world market. However, it must be admitted that the competitiveness of consumer goods in foreign markets is most of all determined by their conformity to international quality, ecological and sanitary standards. As a result, apart from protectionist measures in Western markets, the exports of Kazakhstani goods is further undermined by their relatively low international competitiveness. The most important consideration in this regard are consumer preferences, while price competitiveness of such goods in foreign markets plays a secondary role. However, Kazakhstan's proposals to export products with European quality but with low price, have little chance for success due to anti-dumping actions. A major way for Kazakhstan to raise its exports is to focus on the creation of new unique goods which can only be manufactured most efficiently in Kazakhstan. However, such goods should be competitive in the domestic market first.

The conclusion of an Agreement on Partnership and Cooperation with the European Union in 1999 may widen opportunities for Kazakhstan to extend trade with European Union member countries. The main task now is to further develop Kazakhstani-American bilateral trade within the framework of the Agreement on Trade Relations between Kazakhstan and the United States, signed in May 1992.

Kazakhstan's main trading partners support the accession of Kazakhstan to the WTO as was evidenced by the conclusions of the Kazakhstan-American joint commission meeting, conducted in 1999 in Washington, commending Kazakhstan for its progress in the accession process. The United States have been positive about the achievements so far and expressed their commitment to provide expert assistance.

5. Conclusions and recommendations

(a) *Experiences of other economies in transition to the WTO: lessons for Kazakhstan*

Two countries with economies in transition from a centralized to a market economy and recent members of WTO, Georgia and Kyrgyzstan, have faced major challenges and difficulties in the implementation of all the required reforms, creation of the necessary legislative framework and adjustments in the administrative and executive mechanisms in conformity with WTO rules and principles and which are applicable to all WTO members. The accession processes of these two countries were not easy. A major difficulty concerned the bilateral negotiations on levels of “bound tariffs” and terms of access to the market of services.

Both countries only recently adopted the approved system of customs classification. Georgia, introduced the accepted 1996 version of the Harmonized Commodity Description and Coding System Nomenclature (HS) only on 1 January 1998, while Kyrgyzstan only adjusted its tariff classification after the Russian Federation did the same, providing the basis for the Kyrgyzstan classification.

Both countries also faced the following difficulties:

- (1) The level of required detail of their foreign trade regime and internal legislation procedures;
- (2) Coordination among various branches of power (executive and legislative) associated with the creation of an efficient legislative and normative framework;
- (3) Difficulties experienced during bilateral negotiations on tariffs and obligations for facilitating access to their markets;
- (4) Difficulties associated with coordination of recommendations and commitments regarding tariffs with WTO with those agreed upon with the International Monetary Fund (IMF);
- (5) The large expenditures necessary for trips to Geneva and other associated expenditures;
- (6) Maintenance of qualified specialists staff on WTO issues and preparation of documents in one of three official working languages of the WTO;
- (7) Commitment to present documents in one of the official working languages.

In order to avoid the mistakes made by Georgia and Kyrgyzstan, the following recommendations could be made:

- (1) The terms of negotiations are not an aim in itself. Kazakhstan should ensure that the results of the negotiations and terms of accession would not negatively affect socio-economic development of the country;
- (2) It is necessary to coordinate the WTO accession process with the process of obtaining credit from IMF, i.e. the terms of accession agreed with WTO should not conflict with the terms of credit agreed with IMF;
- (3) Kazakhstan should make maximum use of its observer status at WTO in order to be prepared for the negotiations on accession;
- (4) Kazakhstan should pay due attention to the necessity of intensifying bilateral negotiations with WTO Member States on issues like import custom tariffs, access to domestic market and support to the agricultural sector;
- (5) Kazakhstan should pay special attention to the informal ways of negotiating with certain WTO members, in particular as regular informal consultations with active Working Group members will facilitate the formal negotiations;
- (6) With due regard to the financial/economic constraints of the country, Kazakhstan should budget the necessary funds in the national budget for required travel associated with consultations and negotiations;
- (7) In the process of negotiations on accession, Kazakhstan should seek the abolition of residual restrictive elements in the trade regimes of leading developed countries, including the non-application of the so-called "Jackson-Vanik" amendment still applicable in the United States law to Kazakhstan, and recognition of the country as a country with a market economy. If this problem is not solved before accession, Kazakhstan would not be able to enjoy the economic and trade benefits from WTO membership, as happened in the case of Kyrgyzstan and Mongolia;
- (8) Kazakhstan should pay special attention to issues related to trade in services as commitments in this area will have long-term implications;
- (9) Kazakhstan should clearly identify its needs and requirements for technical assistance, particularly in the area of training, from multilateral

aid organizations such as ESCAP, and of course WTO; The priority area for technical assistance is training of national personnel in the areas of standardization, sanitary and phytosanitary measures in agriculture, and trade-related aspects of intellectual property rights;

- (10) Kazakhstan should establish information centres on standardization and sanitary and phyto-sanitary services in each concerned ministry.

(b) *Summary of conclusions and recommendations*

Foreign trade policy needs to be formulated and implemented in harmonization with industrial, investment, monetary, currency, tax, and social policies. Foreign trade needs to be geared towards developing high value-added industries. In the near future, Kazakhstani exports will continue to be resource-based. Exports of oil, metals, grain will continue to prevail. The country will continue to be vulnerable to external shocks. As a result, foreign trade of Kazakhstan will depend on the situation in world commodity markets, in particular the markets for metals, oil and grain. Apart from establishing industries for the processing of commodities, chemical industries such as industries for the production of rubber and plastic products and new kinds of products need to be developed in order to diversify and expand Kazakhstan's industrial and export sector. In the meantime, in order to ensure equal rights and partnership in the area of world trade, Kazakhstan will continue its preparations for accession to the WTO.

The completion of the negotiations and the accession process meets the long-term interests of the country and will lead to various positive outcomes, in particular: (1) removal of discriminatory measures against a number of important export goods of Kazakhstan and general improvement of their access to world markets; (2) increased competence and competitiveness of selected industrial and agricultural sub-sectors; (3) establishment of trade-economic relations of Kazakhstan with other countries on the basis of a stable and fair rules-based system, including equal rights; (4) access to the dispute settlement system within the framework of the WTO; and (5) improvement of the national legislative framework and its application which will boost further economic reforms.

In conclusion, Kazakhstan's pending status of WTO member will effectively integrate the country into the rules-based multilateral trading system.

The reduction of domestic import tariffs to average levels of 5-7 per cent, as adopted by WTO Member Countries, is not possible for Kazakhstan. Therefore, Kazakhstan proposes relatively higher rates than the current levels of "bound" rates applied by WTO members for most product lines. This proposals is based on the arguments that higher rates create much-needed revenue and reserves,

allow selected industrial and agricultural sub-sectors to recover from the down-turn, allow import substitution to take place in selected sectors as part of the diversification of the domestic economy, and can be used as a bargaining chip during consequent negotiations.

Several conclusions can be drawn, which are important considerations in determining Kazakhstan's position during the follow-up negotiations:

- (1) During the negotiations, Kazakhstan may face intense pressure from other WTO members. However, it will not be possible for the country to make concessions which will compromise the interests and development of the national economy. Accession to WTO should not take place at any price, but on the basis of reasonable terms and conditions. The experience of China is illustrative here. China, while conducting negotiations on accession over the past 10 years, managed to trigger powerful economic growth and exports at the same time. Kazakhstan also needs relatively long adjustment periods to bring its tariff policy in line with WTO requirements.
- (2) The average level of tariff rates, proposed by Kazakhstan should not be unilaterally reduced to levels lower than those applicable to other WTO members but should be determined on the basis of a comparative analysis of competitiveness of countries.
- (3) Protection of certain sectors of the domestic economy by "tariff peaks" exceeding 30 per cent, as practiced by WTO members.
- (4) Kazakhstan's protective tariff structure may become more strict as a result of tariff escalation. Tariff escalation is an inevitable aspect of selective protection policies in the industrial sector. The application of higher reductions on import of raw materials and low value-added products than on imports of high-value added and finished products will protect domestic high value-added industries more effectively. It would lead to easier imports of investment goods and inputs for processing industries and rehabilitation of industry in general, while new and emerging industries in Kazakhstan would be protected from the application of stringent technical standards, quality requirements and sanitary requirements prevailing in the international market.
- (5) It is important to diversify the system of tariff rates, which will not only allow a more flexible protection policy but would also strengthen Kazakhstan's bargaining position in the negotiations for accession to WTO. As long as Kazakhstan country does not complete its economic

reforms and restructuring of its moribund industrial sector, it is difficult to define the areas of specialization for the country. The low technological level of the industrial sector, perverted system of price distortions, and problems of identifying markets for profitable enterprises make it difficult to determine which industrial sectors would be worthwhile developing with maximum effects for the country. However, the country should have a clear industrial policy in order to formulate its tariff regime, details of which it needs to submit to the WTO as part of the negotiation process.

- (6) As Kazakhstan needs to follow a strict schedule of stage-by-stage reduction of duties, it is important that the rules governing this schedule are transparent and predictable. This is not only important for domestic producers and investors but also for foreign investors who are building their investment strategy for Kazakhstan.

As part of the preparations for follow-up negotiations, the country should pay due attention to the following considerations: (1) The country should clearly define the purposes of its general economic strategy based on a detailed analysis of current strategies and policies and their compliance with WTO principles; (2) It should make maximum use of its status as observer in the WTO for proper preparations for the negotiations on accession; (3) It should reactivate its bilateral negotiations with WTO Member States on coordination of commitments on import customs tariffs, access to the national market by foreign suppliers of services, and measures of support in agriculture; (4) It should clearly define the requirements for technical assistance to the accession process.

Finally, it is suggested that Kazakhstan builds its negotiation position by presenting to WTO Member States the following considerations:

- (1) Taking into account the positive results of recent years of economic development, as evidenced in having achieved macro-economic stabilization, implemented substantive structural reforms, strengthened the financial system and improved the investment climate, to support the recognition of Kazakhstan as a country with a market economy by WTO Member States;
- (2) It is extremely important for Kazakhstan to convince the United States of America to remove the "Jackson-Vanik" amendment;
- (3) WTO Member States, taking into consideration the necessity of production diversification, should allow Kazakhstan: (a) the right to maintain primary levels of "bound rates" on sensitive agricultural

and industrial products, which would offer sufficient protection to enable the rehabilitation of Kazakhstani production; (b) the rights to use combined tariff rates (combining ad-valorem and specific duties) on some sensitive goods and apply special protective measures; (c) state support for the development of national service industries in finance, banking and telecommunications, taking into account the budding and fragile state of the services sector in the country;

- (4) WTO members should grant Kazakhstan a transitional period of 3 to 7 years for (a) reduction of tariffs on industrial and agricultural products; (b) fulfillment of commitments within the framework of GATT; (c) reduction of subsidies for agricultural exports; (d) abolition of subsidies for non-agricultural exports; (e) observance of agreement on technical barriers to trade; (f) observance of regulations on customs valuation; (g) observance of agreement on TRIMs; (h) observance of the agreement on TRIPs;
- (5) With reference to the current situation of agricultural production in the country and lack of direct access to ports, WTO Member Countries should allow Kazakhstan to continue support for agriculture, including export subsidies, at levels not lower than allowed for developing countries.

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E. Kyrgyzstan⁸⁷

1. Introduction

This paper was prepared for the Subregional Workshop on Accession to World Trade Organization (WTO) – Economies in Transition, which was organized by the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) in cooperation with the Ministry of Foreign Economic Relations of the Government of Uzbekistan in Tashkent from 25 to 27 July 2001.

The purpose of the paper is to show the experiences of Kyrgyzstan with its accession to the WTO, including positive and negative moments, and provide information and lessons to countries in the process of accession to facilitate their own process.

The paper consists of three parts. Section 2 provides an evaluation of the experiences gained by Kyrgyzstan during its accession and reviews the process of Kyrgyzstan's accession to the WTO. It discusses the lessons and experiences gained from the accession process, and analyzes obstacles encountered and measures taken to overcome them. Section 3 provides an overview of trade policy of Kyrgyzstan before and after WTO accession with focus on Kyrgyz trade policy during the last five years and analyzes trade policy changes as a result of the WTO accession. Issues outstanding as a result of WTO membership. Section 4 summarizes the main conclusions and recommendations. This section surveys recommendations for implementation of Kyrgyzstan's obligations as a member of the WTO with special attention to trade liberalization and promotion measures to be taken.

2. Kyrgyzstan's accession to the WTO: evaluation and obtained experience

(a) Background

After declaration of independence, Kyrgyzstan and fifteen other newly independent states of the former Soviet Union faced a sharp reduction in production and trade, mainly as a result of inadequate trade and payment policies. A complicating factor was the heavy level of economic interdependence among the new states due to the previous centralized system of economic planning.

⁸⁷ Based on a paper prepared by Mr. Anarkan Rahmanova, Head, Department of External Economic Relations, Trade and WTO Issues, Ministry of External Trade and Industry, Kyrgyzstan.

During the period 1992-1994 Kyrgyzstan signed bilateral agreements on trade-economic cooperation with the countries of the newly established Commonwealth of Independent States (CIS).⁸⁸ These agreements generally ruled the delivery of goods in accordance with predetermined quantity and established nomenclature and were based on state trading rather than market forces. As a result, they contributed little to trade.

In order to boost economic growth, Kyrgyzstan has implemented a large-scale programme aimed at political and macro-economic stabilization and structural reforms. The Government of Kyrgyzstan considers the complete integration of the country into the world trading system as a key to the long-term success of economic reforms and development. The first steps towards this goal were made in 1995 when experts of the relevant ministries and organizations of the country were sent to participate in the training seminars of the WTO.

Being a small country and lacking sufficient natural resources, Kyrgyzstan recognizes the necessity and importance of foreign supplies of particular raw materials and products. In this context, Kyrgyzstan looks forward to have access to a great number of suppliers on the most favourable terms. Access to new foreign markets is indispensable for both balance of payment stabilization and for attracting foreign and domestic investors to those industries, where Kyrgyzstan has comparative advantages in the international market. For these reasons, Kyrgyzstan has accorded great importance to membership in the WTO.

(b) Stages of accession to the WTO

The process of accession to the WTO can be divided in the following four stages: (1) Memorandum on Foreign Trade Regime; (2) Multilateral and bilateral negotiations (Working Party); (3) WTO approval; (4) Internal procedures (figure 4).

(i) Formal application for membership

In November 1995, the Government of Kyrgyzstan established the Interdepartmental Commission under the Ministry of Economy to prepare the necessary accession documents of Kyrgyzstan to the WTO. The Commission consisted of representatives of concerned ministries and organizations, including

⁸⁸ The CIS is a confederation of independent states, formerly among the constituent republics of the former Soviet Union, established in 1991 following a summit in the Belorussian city of Brest at which the Soviet Union was dissolved. The 12 Member States are Armenia, Azerbaijan, Belorussia (Belarus), Georgia, Kazakhstan, Kyrgyzstan, Moldova (Moldavia), the Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. The administrative headquarters of the CIS is in the Belorussian city of Minsk.

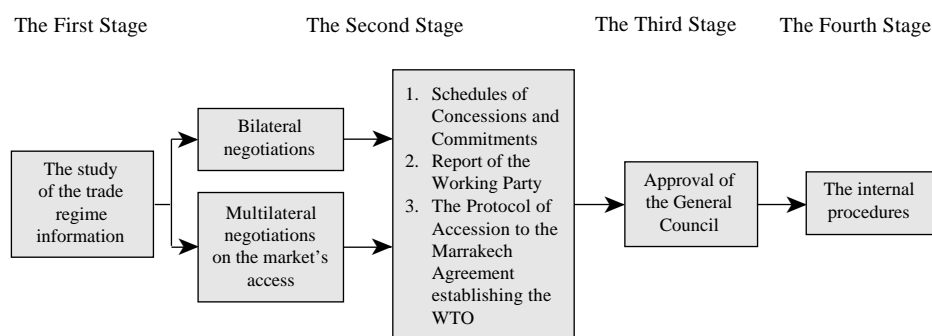


Figure 4. Stages of accession to the WTO

the Government Office, Ministry of Economy, Ministry of Finance, Ministry of Justice, National Statistical Committee, Ministry of External Trade and Industry, Ministry of Foreign Affairs, State Customs Inspection, Research Institute of the Ministry of Economy, and State Agency on Standards and Metrology.

On 13 February 1996, Kyrgyzstan submitted its official request for membership in the WTO to the WTO Secretariat. At the following meeting of the General Council of the WTO, on 16 April 1996, the request of Kyrgyzstan was considered and accepted. According to the procedures, a Working Party on the accession of Kyrgyzstan to the WTO was established. In addition, the meeting accorded Kyrgyzstan the status of observer in the WTO. Table 46 shows a timetable of the accession process of Kyrgyzstan.

(ii) *First stage: the Memorandum on Foreign Trade Regime*

During the first stage of accession, the Working Party collects information on the trade regime on the accessing country. The acceding country submits details of its foreign trade policy and practice in the so-called Memorandum on Foreign Trade Regime and replies to the questions of Working Party members until they have sufficient information to start the formal negotiations.

From January till July 1996 the Interdepartmental Commission under the Ministry of Economy prepared the Memorandum on Foreign Trade Regime of Kyrgyzstan. The Memorandum is the document which describes in detail the legislation of Kyrgyzstan regulating foreign trade. The Memorandum contains a description of the economy, economic policy, foreign trade, and other policies affecting trade in goods and services, export and import regulations of trade in goods and services, trade aspects of intellectual property, legal basis for trade and economic relations with third countries, etc. On the basis of this document and

Table 46. Process of accession of Kyrgyzstan to WTO

Stage	Description	Date
The First Stage	Submitting the application for accession to WTO	13 February 1996
	Establishment of Working Party on accession of Kyrgyzstan to WTO	16 April 1996
	Submitting of the Memorandum on the Foreign Trade Regime of Kyrgyzstan to WTO	24 July 1996
The Second Stage	The first Working Party meeting	10-11 March 1997
	The second Working Party meeting	18 July 1997
	Signature of the Protocol on bilateral negotiations between Kyrgyzstan and Czech Republic	3 February 1998
	Signature of the Protocol on bilateral negotiations between Kyrgyzstan and the Slovak Republic	3 February 1998
	The third Working Party meeting	5 February 1998
	Signature of the Protocol on bilateral negotiations between Kyrgyzstan and Japan	3 April 1998
	Signature of the Protocol on bilateral negotiations between Kyrgyzstan and Cuba	3 April 1998
	Signature of the Protocol on bilateral negotiations between Kyrgyzstan and European Union	24 April 1998
	Signature of the Protocol on bilateral negotiations between Kyrgyzstan and Australia	24 April 1998
	Signature of the Protocol on bilateral negotiations between Kyrgyzstan and Mexico	24 April 1998
	Signature of the Protocol on bilateral negotiations between Kyrgyzstan and Switzerland	27 April 1998
	Signature of the Protocol on bilateral negotiations between Kyrgyzstan and Turkey	4 May 1998
	The fourth Working Party meeting	6 May 1998
	Signature of the Protocol on bilateral negotiations between Kyrgyzstan and United States	7 May 1998
	The fifth Working Party meeting	23 June 1998
	The sixth Working Party meeting	17 July 1998
Adoption of Report of Working Party	17 July 1998	

Table 46. (continued)

The Third Stage	Meeting of the WTO General Council and signature of the Protocol on Accession of the Kyrgyzstan to the Marrakech Agreement Establishing the WTO	14 October 1998
The Forth Stage	Ratification of the Protocol on Accession of the Kyrgyzstan to the Marrakech Agreement Establishing the WTO	17 November 1998
	Entry into force of the Protocol on Accession of the Kyrgyzstan to the Marrakech Agreement Establishing the WTO	20 December 1998

additional supporting documents, the member countries of the Working Party make their decisions regarding the compatibility of the Kyrgyz economic and trade situation with WTO requirements.

The Memorandum was submitted to the WTO Secretariat for distribution among WTO members on 24 July 1996. Following submission, Kyrgyzstan received about 400 questions concerning the Memorandum from countries like European Union (EU) member countries, Japan, Switzerland and the United States of America. Kyrgyzstan gave information on the following fundamental issues:

(1) *In the area of **Economic Policies** the questions concerned:*

- *Foreign exchange and payments system.* The Kyrgyz delegation informed the members that Kyrgyzstan had accepted the obligations of Article VIII of the IMF Articles of Agreement in March 1995 and maintained a fully convertible currency.
- *Investment regime.* The Kyrgyz delegation informed the members that the Law on Foreign Investment provides guarantees of national treatment and full and constant protection of foreign investors.
- *State ownership and privatization.* Some members of Working Party stated that Kyrgyzstan should improve transparency in this area. Kyrgyzstan accepted the obligation to provide annually to WTO members information on developments in privatization process.
- *Pricing policy.* The Kyrgyz delegation informed that all prices had been liberalized except when the concerned item was supplied by an entity that had been classified as either a natural, permitted or temporary monopoly (electricity, gas pipelines, telecommunications, railroad

and aviation). Kyrgyzstan accepted the obligation that all price and profit control would be applied in accordance with Article III: 9 of the GATT 1994 and Article VIII GATS.

(2) *In the area of Policies Affecting Trade in Goods:*

- *Registration and right to trade.* Kyrgyzstan guaranteed that all laws and regulations relating to the right to trade in goods, and all fees, charges or taxes levied on such rights would be in full conformity with WTO obligations, including Articles VIII:1, XI:1 and III:2 and 4 of the GATT 1994.
- *Ordinary customs duties.* The Working Party put questions concerning application of seasonal duties. The Kyrgyz delegation stated that according to the Customs Code Kyrgyzstan may establish seasonal duties, but the rates would not exceed the bound level of tariffs and would be applied in conformity with the requirements of WTO Agreements.
- *Tariff quotas, tariff exemptions.* Some members of the Working Party were interested whether Kyrgyzstan applied tariff quotas or will apply such quotas in the near future. In reply, Kyrgyzstan informed the members that it does not apply quotas. The introduction of tariff quotas in the future will be in line with the concerned WTO Agreements, including Article XIII: 5 GATT. Kyrgyzstan accepted the obligations in conformity with Articles I and XXIV of GATT.
- *Fees for services rendered.* The members of the Working Party requested the information on any fees applied to imported and exported products. In response, the Kyrgyz delegation confirmed that all fees and charges for services related to importation or exportation would be operated in conformity with the provisions of Article VIII, GATT 1994 from the date of accession.
- *Application of domestic taxes to imports.* The members of the Working Party, in particular the United States, asked when the system of Value Added Tax (VAT) of Kyrgyzstan will be in conformity with Article I, GATT. In response, Kyrgyzstan replied that at that moment it was implementing changes of the system of taxation of the VAT to the destination principle. At present time Kyrgyzstan applies the destination principle.

- *Excise taxes.* Questions on this issue were raised mostly by the European Union and the United States. The Working Party noted that the current system of excise tax in Kyrgyzstan was not compatible with Article III of GATT. The Kyrgyz delegation informed the members that Kyrgyzstan would establish a uniform equal regime of excise taxes on both imported and domestic products. These commitments have now been honoured.
- *Quantitative import restrictions.* The European Union asked whether Kyrgyzstan would apply any import quotas and restrictions. In response, the Kyrgyz delegation stated that Kyrgyzstan does not plan introduction of any import restrictions, except for cases permitted by the WTO Agreements. With reference to the introduction of import quotas, the Kyrgyz delegation informed the members that import quotas may be applied in the future as an emergency measure, in conformity with Article XIX of the GATT 1994 and the Agreement on Safeguards.
- *Rules of origin.* In generally, Kyrgyzstan received questions on this issue from the European Union and the United States. The members of Working Party were interested whether Kyrgyzstan had a law requiring country of origin marking. In response Kyrgyzstan stated that all goods required a certificate of country of origin; in accordance with the Customs Code, origin is determined on the basis of methods specified in the Kyoto Convention Annex.
- *Anti-dumping, countervailing duties and safeguards.* The United States commented that the current Law of Kyrgyzstan on customs tariff and the proposed Law departed from WTO rules on imposition of anti-dumping duties in several respects. The Working Party requested that the legislation be amended so as to be WTO consistent from the date of Kyrgyzstan's accession to the WTO. In response, Kyrgyzstan stated that dumping, countervailing duties and safeguard measures would be governed by new laws currently being drafted in conformity with respective WTO Agreements. These laws have now been adopted.
- *Export licensing.* Some members of the Working Party, mostly representatives of the United States, were interested whether a national regime is applied for the issue of export licenses and how the system of export licensing is applied. The Kyrgyz delegation answered that licenses are required for export of arms, explosives, nuclear materials and technologies used for military purposes, virulent poisons, narcotics, and psychotropic substances, works of art and antiquities having

historical, cultural or scientific value, precious and rare metals extracted and produced in Kyrgyzstan and their fragments and rare types of raw materials of vegetable or animal origin having pharmacological applications. Licensing is mandatory for textile exports to the European Community. Kyrgyzstan stated that it would ensure that its system of export licensing was in conformity with the requirements of GATT 1994 as from the date of accession.

- *Export subsidies.* The issue of export subsidies was of interest to almost all members of the Working Party. They asked for confirmation that Kyrgyzstan would not apply export subsidies in the future. The Kyrgyz delegation answered, that there is no policy or measures for subsidizing exports in Kyrgyzstan. There are only certain programmes for maintenance of export, including privileges for particular investment projects. Kyrgyzstan accepted the obligations to eliminate all privileges which could be considered to conflict with the requirements of the Agreement on Subsidies and Countervailing Measures by 31 December 2002.
- *Technical barriers to trade.* Generally the questions concerned technical norms and standards, and whether sanitary and phyto-sanitary standards of Kyrgyzstan corresponded with international standards. Kyrgyzstan accepted the obligation that from the date of accession to WTO the Government will apply the Agreement on Technical Barriers to Trade without any reference to a transition period. Kyrgyzstan would report annually on progress made on harmonization of standards until such standards were in conformity with WTO requirements.
- *Trade-related investment measures.* Questions were asked concerning the system of tax privileges for juridical persons with foreign participation, and taxation in free economic zones. Kyrgyzstan accepted the obligation, that from the date of accession, the Government would not apply measures which are not in conformity with the Agreement on Trade-Related Investment Measures.

(3) *Other Issues:*

- *Trade Related Intellectual Property Regime (TRIPs).* The members of the Working party were interested in legislative situation in the area of intellectual property rights protection. The Kyrgyz delegation informed the members that the system of intellectual property rights protection was in transition from the system inherited from the former

Soviet Union. Today, the policy of the Government is focused on the establishment of a system of protection of intellectual property similar to the systems of the developed countries.

- *Transparency.* Kyrgyzstan informed the members that practically all laws, decrees, rules and Government orders are published in national newspapers; in addition Bulletins of normative acts are published on a monthly basis. Kyrgyzstan agreed that normative documents which elaborated on the implementation of its commitments under WTO would be presented in time to WTO.

In January of 1997 the Government of Kyrgyzstan established a different Interdepartmental Commission under the Government to conduct the negotiations with WTO and coordinate the activities of concerned ministries and administrative agencies.

The first meeting of the Working Party took place on 10 and 11 March 1997, under the chairmanship of Mr. J.M. Metzger of France, and was devoted to the consideration of the Memorandum on the Foreign Trade Regime of Kyrgyzstan, including a questions and answers session. At this meeting the discussion of the Memorandum was completed, and at the second meeting of the Working Party on 18 July 1997 an additional question and answer session took place.

(iii) *The second stage: negotiations*

a. *Meetings of the Working Party*

The purpose of the Working Party meetings comprises of a study of the foreign trade regime of a country-observer on its compatibility with the legal requirements of the WTO Agreements and the conclusion of agreements on terms and conditions of accession other than those legal requirements. After the conclusion of the negotiations, the Working Party prepares its Report (briefly stating the results of the meetings) and the Draft Protocol of Accession.

Membership of the Working Party on the accession of Kyrgyzstan was open to all WTO Member Countries. However, only an average of 20 countries participated in the meetings of the Working Party. Australia, Czech Republic, European Union, France, Japan, Germany, Mexico, Poland, Slovak Republic, Spain, Switzerland, United Kingdom and the United States were the regular participants of the meetings. In addition, Working Party proceedings were open to all observers at the WTO. Regular observers participating the Working Party meetings were representatives of China, Estonia, Latvia, the Russian Federation, IMF, UNCTAD and the World Bank.

At the third and fourth meetings of the Working Party, held on 5 February 1998 and 6 May 1998 respectively, the Draft Report of the Working Party on the accession of Kyrgyzstan was considered. At the fifth meeting of the Working Party on 23 June 1998, the Schedule of Concessions and Commitments on Goods and the Schedule of Specific Commitments on Services were adopted. The closing sixth meeting of the Working Party took place on 17 July 1998. At this meeting the Report of the Working Party on accession of Kyrgyzstan to the WTO with all additions, and the Protocol of the Accession of Kyrgyzstan were adopted.

At the meetings of the Working Party, Kyrgyzstan received questions about its investment regime; state ownership and privatization; policies affecting trade in goods, including application of domestic taxes on imports, tariff quotas and tariff exemptions, customs tariffs, customs valuation; rules of origin; anti-dumping; countervailing and safeguards; regulation of export; free zones; intellectual property; trade in services; trade in agriculture, etc.

One of the most important questions raised during the meetings, was the position of Kyrgyzstan in relation to its obligations as member of the Customs Union⁸⁹ and the CIS. The delegation of Kyrgyzstan presented to the Working Party a list of all signed agreements concerning regional trade, and also a brief summary of conditions of the agreements.⁹⁰

The members of the Working Party put specific emphasis on the application of principles of transparency in relation to the country's legislation and information on its legislative framework so as to facilitate the submission of proposals and amendments by interested parties. Also special attention was given to the improvement of the legislation of Kyrgyzstan in the areas of foreign investments, intellectual property, information technologies, copyright and government procurement and to the opportunity of joining the non-obligatory WTO Agreements. Following the Working Party comments, Kyrgyzstan made changes to the existing laws and adopted new laws with the purpose of ensuring conformity of its legislation with WTO rules and requirements (table 47).

The questions of the Working Party and replies from Kyrgyzstan are contained in the Report of the Working Party on Accession of Kyrgyzstan to the WTO.⁹¹

⁸⁹ Member Countries of the Customs Union are Belarus, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan.

⁹⁰ Memorandum on the Foreign Trade Regime of Kyrgyzstan (WTO/ACC/KGZ/3).

⁹¹ Report of the Working Party on the Accession of Kyrgyzstan to WTO (WTO/ACC/KGZ/26, 31 July 1998).

Table 47. Short Chronology of Foreign Trade Policy Changes, 1994-2000

1994	
May	Temporary tariff at a rate of 10 per cent on all imported goods introduced.
June	Cancellation of export licensing and taxes for all kinds of goods (with some exception); Cancellation of state order and contracts on internal deliveries, replacement with purchases (on a voluntary basis) to maintain needs of the state.
1995	
January	Excise tax on manufacture and import of goods was introduced.
March	Program on basic directions of foreign economic policy of the country was adopted.
August	Import duties on investment goods without the right of their realization were cancelled.
October	Number of goods subject to export duties was reduced.
December	Last export duties were cancelled (skin of black cattle). Excise stamps on manufacture, import and sale of tobacco products and alcoholic drinks introduced.
1996	
January	Formal application for membership of WTO.
February	Procedures for export and import of products (goods and services) and currency were changed. A list of countries enjoying the preferential scheme was approved.
April	The list of manufactured and imported products subject to compulsory certification was changed.
June	The Tax Code was adopted.
July	The Memorandum on Foreign Trade Regime of the Republic was submitted to WTO.
1997	
March	Excise tax on goods imported from CIS countries was introduced.
June	The second program of development of export for 1997-1998 was adopted. The Law on State Regulation of Foreign Trade Activities was adopted.
July	The Tax Code was adopted.
September	The Law on Foreign Investments was adopted.
November	Decision was made on Accession to the Ministerial Declaration on Trade in Informational Technology Products.
December	Law on Protection of Consumers' Rights was adopted.

Table 47. (continued)

1998	
January	Law on Copyright and Neighbouring Rights was adopted.
February	Law on Patent was adopted.
April	Law on Software and Database was adopted.
May	Amendments to the Law on Foreign Investments were made.
June	Amendments to the following laws were made: on Standardization; on Certification; on Plant Quarantine; on Veterinary; on Breeding Achievements.
July	Law on Ratification of the Agreement of the World Intellectual Property Organization was adopted; Law on Joining to the Bern Convention on Protection of Literary Works and Fiction was adopted; Law on Legal Protection of Breeding Achievements was adopted; Resolution was adopted on establishment of size of duties for customs registration and issue of certificates of origin of goods.
August	Amendments were made to the Customs Code; Decision was made to join the Agreement on Trade in Air Equipment and commitments were taken on Agriculture.
October	The following laws were adopted: on Anti-Dumping, On Safeguards, On Subsidies and Countervailing Measures.
November	Law on Ratification of the Protocol of Accession to the Marrakech Agreement Establishing the WTO was adopted.
1999	
July	Law on Customs Tariff for 1999 was adopted; Law on Investment Funds was adopted; Law on Basic Excise Tax for Excised Goods Imported and Produced by Legal Entities and Natural Persons was adopted.
October	Law on Natural and Allowed Monopolies was adopted.
December	Law on Customs Tariff for 2000 was adopted.
2000	
February	The list of countries which enjoy MFN treatment was approved; The list of countries, which apply the agreed system of preferences of Customs Union states was approved.
March	Law on Ratification of the Convention on Protection of the Investor's Rights was adopted.

b. Bilateral negotiations

Bilateral negotiations are held to agree on the terms of market access of a country-observer. The commitments on goods and services, that result from these negotiations, are included in the Schedule of Concessions and Commitments annexed to the General Agreement on Tariffs and Trade and the Schedule of Specific Commitments annexed to the General Agreement on Trade in Services. Concessions included in the two Schedules will be automatically applicable to all WTO members according to the principle of most favoured nation (MFN) treatment.

The Kyrgyz delegation, participating in the meetings of the Working Party and conducting the bilateral negotiations, was headed by the Chairman of the Interdepartmental Commission under the Government of Kyrgyzstan on Negotiations with WTO, Mr. E. Omuraliev. Other members of the delegation were high level officials from the key ministries and state bodies of Kyrgyzstan including the President's Office, Ministries of Finance, Justice, Foreign Affairs, Foreign Trade and Industries, Agriculture, the State Customs Committee, the State Agency on Intellectual Property, State Committee on Standardization and Metrology, and the Kyrgyz Ambassador in Geneva.

Kyrgyzstan conducted bilateral negotiations on accession to the market of goods with the following countries: Australia, Czech Republic, Cuba, Japan, Mexico, Slovakia, Switzerland, European Union, Turkey and the United States. Only Australia, the European Union, Switzerland, and the United States conducted bilateral negotiations on access to the market services.

As a rule bilateral negotiations on the accession to WTO are conducted with the greatest possible secrecy in order to avoid premature disclosing of details of prospective concessions.

During bilateral negotiation the member countries of WTO show persistence with regard to their requests for certain concession on groups of goods or services sector which are of great interest to these countries.

For example, during the negotiations with Mexico, which had requested Kyrgyzstan to allow market access of tequila, the Kyrgyz delegation argued that the majority of the population are Muslims and therefore demand for alcoholic production in Kyrgyzstan is very low. Cuba demanded concessions in the area of market access of its sugar. However in Kyrgyzstan the manufacturing of sugar is well-established and a priority sector. Therefore the Kyrgyz delegation during the negotiations persistently invoked national interests as an argument to protect the domestic sugar industry.

The industrially advanced countries, such as the European Union, Japan and the United States insisted that Kyrgyzstan should accede to the Sectoral Agreements, such as those on Information Technology, Beer, Fish, Pharmaceuticals, Textiles, Steel, Non-ferrous Metals, Medical Equipment, Paper, Scientific Research Equipment, Toys, etc. Besides, they submitted requests for negotiations on almost all good items and their classification.

After each round of bilateral negotiations on access to the market of goods and services, Kyrgyzstan took the requests of the member countries of WTO into careful consideration and prepared new offers for the continuation of negotiations.

Also there were many discussions concerning market access of various services, in particular financial and banking services, telecommunications, professional (legal, engineering, architectural, building and others). Kyrgyzstan submitted the detailed description of all sectors of services and legislative regulating each sector of services to members of Working Party. The basic purposes of government regulation of sector of services are: protection of life, health and economic interests of the consumers, protection of an environment and suppression of a unfair competition. The national regime is usually given to foreign suppliers of services. Besides Kyrgyzstan does not conduct a policy of discrimination of foreign suppliers.

(iv) The third stage: General Council's approval

At its last meeting the Working Party decided to recommend to the General Council to accept Kyrgyzstan as a member of the WTO. The General Council is a special body of the WTO which makes the final decisions on accession of new members to the Organization. General Council decisions on membership are traditionally reached by consensus. However, in the absence of consensus, the decision can be taken on the basis of a two-thirds majority vote. However, pending the final decision of the General Council, objecting countries have the right to declare that its commitments and concessions and obligations under the Agreements of WTO would not be extended to the acceding country.

At its 14 October 1998 meeting, the General Council decided about the accession of Kyrgyzstan and adopted the Protocol of Accession of Kyrgyzstan to the Marrakech Agreement Establishing the World Trade Organization.

(v) The fourth stage: internal procedures

The Protocol of Accession of Kyrgyzstan to the Marrakech Agreement Establishing the WTO was ratified on 17 November 1998. The Protocol entered

into force on 20 November 1998 and Kyrgyzstan became the 133th member of the WTO.

(c) *Analysis of accession and obtained experience*

(i) *Positive elements and problems associated with early accession of Kyrgyzstan to WTO*

The process of accession of Kyrgyzstan to the WTO took less than 3 years. This period for accession is relatively small compared with that of other countries. For example, Latvia, having been observer since 1993, joined the Marrakech Agreement of the WTO together with Kyrgyzstan on 14 October 1998. However, ratifying the Protocol later than Kyrgyzstan, Latvia became a member of the WTO on 10 February 1999 after Kyrgyzstan.

Some of the factors which influenced the fast accession of Kyrgyzstan to the WTO, include the following:

First of all, the country was very eager and ready to join the world trading system which is subject to principles of trade without discrimination and fair competition as stipulated in the WTO Agreements. This is particularly important for a small country like Kyrgyzstan, which is trying to carve out a position in the international market with security to its exports in a predictable trading environment.

Therefore, and secondly, the country eliminated any barriers at the national level, which could disturb or postpone accession to the WTO. WTO membership was the first priority of the foreign economic policy of the country. Consequently, all the decisions at the state level at every stage of the accession process were made timely without undue delay.

Thirdly, the created Interdepartmental Commission under the Government of Kyrgyzstan on negotiations with WTO consisted of competent high level officials, who were able to avoid any further difficulties in the negotiations and respond effectively to the questions raised during the meetings of the Working Party and bilateral negotiations.

Fourthly, the country benefited from timely assistance under the USAID project, which provided technical assistance and advisory services all through the accession period.

Despite this, Kyrgyzstan faced the following problems during the accession process:

- (a) Complexity of conducting bilateral negotiations on tariffs and obligations on accession to the market of services;
- (b) Absence of specialists on international trade in the country;
- (c) Interdepartmental bureaucratic barriers, which were an obstacle to effective coordinated decision-making;
- (d) Limited availability of financial resources in the country required to fund the participation of the Kyrgyz delegation in the meetings of the Working Party and for conducting the bilateral negotiations.

Early accession has allowed officials and experts in Kyrgyzstan to gain experience in managing the multilateral trading system and applying WTO regulations. In addition, Kyrgyzstan benefited from participating in various WTO seminars and training courses which allowed for better understanding of the organization and functioning of the WTO and its various departments and facilitated the establishment of a more effective national infrastructure for protection of its commercial rights.

Early accession also allowed the country, as a WTO-member, to conduct bilateral negotiations with other countries-observers and to request concessions favourable to Kyrgyz export products. For example, Kyrgyzstan has conducted bilateral negotiations with China, which is a neighbour and main trading partner of the country.

Kyrgyzstan is a member of regional agreements, such as the Commonwealth of Independent States (CIS), Customs Union (CU), and Central Asian Economic Union (CAEU).⁹² The member states of these integration frameworks are working towards a free trade regime and signed an Agreement towards this goal on 15 April 1994, with an attached Protocol signed in April 1999.

Kyrgyzstan's membership of the WTO has created a new situation in the Customs Union and CIS, and is a particular advantage for other countries in the region in their accession process. Having experience with the accession process, Kyrgyzstan advised countries like Azerbaijan, Belarus, Kazakhstan, Uzbekistan,

⁹² Country members of Central Asian Economic Union (CAEU) are Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan. The Customs Union (CU) of the Russian Federation, Belarus, and three Central Asian countries (Kazakhstan, Kyrgyzstan and Tajikistan) was upgraded in October 2000 to a Eurasian Economic Community (EAEC).

and also Tajikistan, which has recently submitted its formal application for membership.

(ii) *Kyrgyzstan's accession to the WTO: a closer look*

Basically, the process of accession consists of two main sub-processes: (a) obligatory reforms of the national legal system and trade policy in conformity with WTO Agreements and provisions; and (b) negotiations with WTO members on terms and conditions of accession to the markets of goods and services.

During the accession process, Kyrgyzstan adjusted its legal and political system regulating foreign trade to align it with WTO requirements. Laws and standard regulations corresponding to WTO requirements have been adopted and put into effect. It is important to emphasize that the laws adopted with the purpose to join the WTO were part of the wider reform process and basically independent of accession.

The process of bilateral negotiations provided useful lessons and knowledge of procedures and regulations of the WTO. In the end, the bilateral negotiations determine what commitments and concessions a country will make in order to become a WTO member.

In the case of Kyrgyzstan, the main active members in the negotiations were Australia, Cuba, European Union, Mexico, Switzerland and the United States. It is interesting to note that Australia and Mexico are not trading partners of Kyrgyzstan but were insisting that Kyrgyzstan assume particular commitments. In general, all countries insisted that Kyrgyzstan should join some sectoral agreements,⁹³ which are in fact not obligatory requirements for accession. However, lately some WTO Members Countries are insisting that acceding countries join these sectoral agreements as well as non-obligatory WTO Agreements such as the Agreement on Trade in Civil Aircraft, the Agreement on Government Procurement, the International Dairy Agreement, the International Bovine Meat Agreement, etc. In the end, as mentioned before, it all depends on the bilateral negotiations, how successfully a country can protect its interests in these circumstances.

In spite of the fact that Kyrgyzstan is a developing country, the demands from some WTO members for Kyrgyzstan's accession to WTO were quite stiff and forced the country to assume a higher level of obligations. For example,

⁹³ Sectoral agreements are separate agreements of member countries of WTO on tariff concessions in particular sub-sectors such as Fish, Chemicals, Pharmaceuticals, Textiles, Steel, Non-ferrous Metals, Medical Equipment, Agricultural Equipment, Construction Equipment, Furniture, Paper, Scientific Research Equipment, Toys, Information Technology, etc.

WTO members-countries demanded that Kyrgyzstan join the Agreements on Trade in Civil Aircraft and on Government Procurements. The members of the Working Party expected that Kyrgyzstan would join the Agreement on Trade in Civil Aircraft on the day of accession to the WTO. Kyrgyzstan has confirmed it will join the Agreements on the basis of terms on conditions acceptable to the country and other partners under the Agreements.⁹⁴

As a result, Kyrgyzstan was forced to start the process of negotiations on joining the Agreement on Government Procurements from the moment it became a WTO member, though only 26 countries, mostly industrially advanced countries with perfect legal systems for the implementation of the Agreement, have joined this Agreement. As of today the country has submitted a list with organizations involved in government procurement and is preparing for the negotiations. However, Kyrgyzstan does not have enough experience in this area and as it is first necessary to undertake some restructuring of the current structure of state procurement in conformity with the standards of the Agreement on Government Procurement, the process on accession to this Agreement has been delayed.

There are other examples of how WTO members can be demanding in the accession process, for instance in the area of agriculture. The commitments of Kyrgyzstan with regard to reduction of agricultural tariffs, domestic support and export subsidies to agriculture production are shown in Part I of the Schedule of Concessions and Commitments to the Protocol on the Accession of Kyrgyzstan to the WTO. As a result of the insistence of various WTO members which are main trading nations, Kyrgyzstan was obliged to accept an upper limit of five per cent for domestic support to agricultural production, despite the fact that for developing country members, the *de minimis* percentage is 10 per cent. However, because of a shortage of finance the national budget allocation to agriculture is at levels of 1-2 per cent and does not exceed 5 per cent, the Kyrgyz Government made the decision to accept this commitment.⁹⁵

Before Kyrgyzstan became a full member of the WTO, the United States had declared that it will not apply the WTO Agreements in relation to Kyrgyzstan as a result of the Jackson-Vanik amendment to Section IV of the Trade Act of the United States, which applied to Kyrgyzstan as part of the former Soviet Union.

This amendment denies MFN treatment and prohibits credit programmes, credit and investment guarantees and conclusion of any commercial agreements with countries which are non-market economies and which do not allow freedom

⁹⁴ WTO/ACC/KGZ/26, op.cit.

⁹⁵ *ibid.*

of emigration. In June 2000, the United States cancelled the Jackson-Vanik amendment with regard to Kyrgyzstan.

(iii) Obtained experience

It is very important to note that every accession is unique and depends on the economic significance and potential of an acceding country and its role in the international trade. However, it should be pointed out that the longer a country postpones its accession to the WTO, the stronger the terms and conditions for accession. Year after year, WTO Member States become increasingly experienced in the mechanisms and implementation of the WTO Agreements. In particular, WTO Member States learn more about different bureaucratic and regulating barriers and loopholes preventing the implementation of various WTO Agreements (Pa homou, 2000). To stop these obstructive practices and ensure effective implementation of the WTO Agreements, WTO Member States are more specific and demanding on the terms and conditions for accession of new countries. In particular, the following experiences of Kyrgyzstan provide useful lessons for other countries in the process of accession:

- Accessing countries should create an effective government body consisting of highly competent officials to conduct the negotiations and coordinate the activities of various government agencies involved in the accession process;
- Accessing countries should be prepared to make fundamental adjustments in their legislation to meet WTO obligations;
- All documents on accession to WTO, in particular the Memorandum of the Foreign Trade Regime, should be carefully prepared to limit additional questions from the members of WTO;
- Accession to WTO requires that acceding countries make concessions which will have profound implications for access of imported goods and services to their domestic markets;
- Accessing countries should be prepared to answer difficult questions regarding current and future policy for foreign trade;
- Accessing countries should strive to achieve balanced concessions in the negotiations on goods and services, which on the one hand would allow them to protect priority sectors, and on the other hand, to accept obligations for liberalization of foreign trade;

Table 48. Accession of Kyrgyzstan to sectoral agreements

Sectoral Agreements	Bound Rate (per cent ad valorem)	Implementation
Agricultural equipment	0	2000
Chemical products	0, 6.5	2000
Construction equipment	0	2000
Furniture	0	2000
Medical equipment	0	2000
Non-ferrous metals (with exceptions)	0	2003
Paper	0	2000
Pharmaceutical products	0	2000
Scientific research equipment	0	2000
Steel	0	2000
Textile (with exceptions)	5, 10, 12	1999-2005
Toys	0	2000
Goods of wood	0	2000
Informational technologies	0	1998

- Trade in services and protection of intellectual property rights are basically new areas of activity for economics in transition; therefore Member Countries of WTO can raise additional questions in these areas;
- Acceding countries should be ready to make serious modifications in their legislation to enhance transparency and predictability of their national trade regime and to practice the trade principles and commitments, accepted in the international rules and provisions of WTO;
- Acceding countries should be aware that the Working Party will carefully study their trade relations with regional partners within the context of regional trading arrangements such as free trade zones and customs union. Acceding countries should therefore be ready to explain how such regional agreements comply with Article XXIV of GATT and Article V of GATS. If the regional agreements has not come into force, their further development should be coordinated within the framework of accession to WTO. If there is an intention to create regional unions, countries should determine priorities concerning accession to WTO and development of regional cooperation frameworks or ensure compatibility;

- It is obviously important, that negotiations for accession of economies in transition to WTO will affect the development of their foreign trade regimes and legislation in accordance with WTO provisions and may therefore boost and facilitate the transition to a market economy. As members of WTO, these countries will have an opportunity to carry out more effectively subsequent liberalization of foreign trade, taking into account priorities for national development, such as the renewal of economic growth and structural reform.

(d) Analysis of the impact from accession to the WTO

The impact of joining WTO on trade liberalization and the economy in general will depend on the effects of customs tariff reductions which in turn decrease cost of imports of raw materials used in domestic production and decrease prices of consumer goods which will stimulate economic growth. In fact, in 2000 industrial output rose by 108.9 per cent overcoming the recession caused by the Russian crisis and other structural problems.

Of course, Kyrgyzstan's relatively brief period as a WTO Member Country (two years) makes an analysis of the impact of accession only preliminary as no long-term trends can as yet be identified. For instance, in 1998 the share of foreign trade of the country with WTO Member Countries was 44.9 per cent, in 1999 it was 52.1 per cent, but in 2000 fell to 44.5 per cent again (table 50).

In 1999, foreign trade turnover of Kyrgyzstan with non-WTO Member Countries decreased by 32.5 per cent to \$ 504.7 million. At the same time the volume of foreign trade operations with WTO Member Countries declined only by 10 per cent to \$ 548.8 million. Thus, in 1999 declines in foreign trade turnover volumes were observed for both WTO Member Countries and non-Member Countries.

In 1999, exports with WTO Member Countries was \$ 245.2 million, but imports \$ 303.6 million; compared with the previous year exports had fallen by 11.7 per cent, imports by 33.5 per cent.

The total volume of foreign trade in 2000 remained at the 1999 level, while the decline in imports continued, decreasing by 7.5 per cent as a result of domestic factors, in particular a continuing stagnation of the economy and decline in people's ability to service their financial obligations. But in comparison with the previous year total exports to CIS countries increased by 11.2 per cent, while export to the WTO Member Countries remained at the level of the previous year. Intergovernmental agreements played an important role in boosting exports to other countries in the CIS. For instance, the reduction of tariffs for the transit of

Table 49. Foreign trade of Kyrgyzstan for 1995-2000

	1995		1996		1997		1998		1999		2000	
	Million USD	Growth rate (per cent)	Million USD	Growth rate (per cent)	Million USD	Growth rate (per cent)	Million USD	Growth rate (per cent)	Million USD	Growth rate (per cent)	Million USD	Growth rate (per cent)
Total (per cent)	100		100		100		100		100		100	
External trade turnover	931.2	141.7	1 343.1	144.2	1 313.1	97.8	1 355.1	103.2	1 053.5	77.7	1 059.1	100.5
Export	408.9	120.2	505.4	123.6	603.8	119.5	513.6	85.1	453.8	88.4	504.5	111.2
Import	522.3	164.8	837.7	160.4	709.3	84.7	841.5	118.6	599.7	71.4	554.6	92.5
Trade balance	-113.4		-332.3		-105.5		-327.9		-145.9		-50.1	
Non CIS Countries (per cent)	38.0		37.2		41.9		49.8		58.0		51.2	
External trade turnover	308.4	137.3	462.8	150.1	558.0	120.6	683.9	122.6	611.0	89.3	542.7	88.8
Export	139.7	119.3	112.0	80.2	284.5	254.0	283.1	99.5	270.5	95.4	287.1	106.1
Import	168.7	156.9	350.8	207.9	273.5	77.9	400.8	146.5	340.5	84.9	255.6	75.1
Trade balance	-29.0		-238.8		11.0		-117.7		-70.0		31.5	
CIS countries (per cent)	62.0		62.8		58.1		50.2		42.0		48.8	
External trade turnover	622.8	144.0	880.3	141.3	755.1	85.8	671.2	88.9	442.5	65.9	516.4	116.7
Export	269.2	120.7	393.4	146.2	319.3	81.2	230.5	72.2	183.3	79.5	217.4	118.6
Import	353.6	168.8	486.9	137.7	435.8	89.5	440.7	101.1	259.2	58.8	299.0	115.4
Trade balance	-84.4		-93.5		-116.5		-210.2		-75.9		-81.6	

Source: National Statistics Committee of Kyrgyzstan [10].

Table 50. Kyrgyzstan's external trade turnover, 1996-2000*

	1996		1997		1998		1999		2000	
	USD million	per cent	USD million	per cent	USD million	per cent	USD million	per cent	USD million	per cent
Total turnover	1 343.1	100	1 313.1	100	1 355.2	100	1 053.5	100	1 059.1	100
WTO countries	402.3	30	497.9	37.9	607.9	44.9	548.8	52.1	471.6	44.5
other countries	940.8	70	815.2	62.1	747.3	55.1	504.7	47.9	587.5	55.5
Total exports	505.4	100	603.8	100	513.7	100	453.8	100	504.5	100
WTO countries	62.0	12.3	242.8	40.2	259.2	50.6	245.2	54	243.0	48.2
other countries	443.4	87.7	361.0	59.8	254.5	49.4	208.6	46	261.5	51.8
Total imports	837.7	100	709.3	100	841.5	100	599.7	100	554.6	100
WTO countries	339.5	40.5	255.3	36	348.7	41.4	303.6	50.6	228.6	41.2
other countries	498.2	59.5	454	64	492.8	58.6	296.1	49.4	326.0	58.2

Source: National Statistic Committee of Kyrgyzstan [10].

Note: * Kyrgyzstan made a request to the WTO in 1996.

vehicle freight transportation in Kazakhstan from \$ 300 to \$ 35 per vehicle beginning April 2000 has improved trade with the CIS countries, in particular the Russian Federation.

It should be realized that, despite Kyrgyzstan's acquired rights under WTO, it cannot boost its exports to developed WTO Member Countries because most of its export products are not competitive and the country is land-locked and depends on other countries for the supply of goods to international markets. The WTO rules on transit (Article V GATT) state that the WTO Member Country should give open, fair and equal access to all types of transport to other WTO Member Countries. Furthermore, all duties on transit transportation should be levied within reasonable limits and should reflect the cost of rendered services. WTO membership guarantees transit by each WTO Member Country of Kyrgyzstan goods. However, the closest neighbours of Kyrgyzstan are not WTO Member Countries at present, and as such Kyrgyzstan cannot take full advantage of its own membership of WTO. As a result, the advantages of WTO membership for Kyrgyzstan are long-term.

Accession of Kyrgyzstan to the WTO and the consequent changes in tariff policy have led to reductions in tax receipts (table 51). Before accession to the WTO the average level of customs tariff rate was 10 per cent. After accession to the WTO the average customs tariff rate became 9.18 per cent, and in 2000 already 5.2 per cent. As a result, the share of custom payments to public revenue dropped from 6.2 per cent in 1998 to 2.9 per cent in 2000. It should be observed that during the same period imports declined (table 49). The fall in revenue as a result of declining tariff rates has not been offset by a growth in trade volume.

Table 51. Customs receipts (million Som) and in percentage to GDP

Year	1995	1996	1997	1998	1999	2000
Customs receipts	134.3	196.6	244.9	380.5	306.6	274.9
In percentage to total incomes	4.89	5	4.86	6.2	3.89	2.96
In percentage to GDP	0.83	0.84	0.80	1.24	0.62	0.44

Source: National Statistics Committee of Kyrgyzstan [10].

Kyrgyzstan's partners in the Customs Union have expressed their concern that Kyrgyzstan accepted excessive obligations for opening its domestic market as a condition of WTO membership. For instance, Kyrgyzstan has accepted obligations to join practically all non-obligatory agreements and sector initiatives severely limiting options for protection of its agricultural sector, and has virtually completely opened its market for services to non-residents, including the financial sector, (Chinaliev, 2000). However, as mentioned above, WTO members insist that new countries join the non-obligatory agreements and sector initiatives.

Fears of Customs Union members that the more liberal market of Kyrgyzstan would lead to re-export of goods from third countries to CU member country markets through Kyrgyzstan have not been justified. Kyrgyzstan has clear rules established by law on the origin of goods and certification of origin of goods exported from Kyrgyzstan which conform to international standards.

Concerning the opening of the services sector to non-residents, it should be observed that Kyrgyzstan's obligations under WTO have not had any negative effect on the economy of the country. The balance of services has been consistently negative but improving from – \$ 112.8 million in 1998 to – \$ 87 million in 2000.

In conclusion, since Kyrgyzstan's membership of the WTO, the volume of sales turnover hasn't hardly changed, no negative impacts have been observed as a result from the liberalization of the services sector, while the reduction of tariffs has resulted in revenue loss.

3. Overview of trade policy before and after WTO accession

(a) General trends in trade and trade policy

By the end of 1995, Kyrgyzstan had recognized the necessity and importance of membership of the World Trade Organization, as part of the new strategic direction of trade policy of the country aimed at effective integration of into the global economy and multilateral trading system. This decision was further motivated by the general aspiration of all countries of the former Soviet Union to become

a member of WTO. In the period 1995-1998, the Government had managed to reduce inflation rates, stabilize the exchange rate and slow down a decline in production.⁹⁶ However these achievements had no effect on the balance of payments and the deficit widened to an alarming level in 1998. Therefore, during this period special attention was paid to Kyrgyzstan's integration into the world economy both at the regional and global level. For that purpose, the basic legal and institutional framework for international trade were established resulting ultimately in Kyrgyzstan's accession to the WTO.

As a result, since 1996 all changes in the national trading regime were made on the basis of WTO requirements. The most comprehensive package of legal and institutional documents regulating trade of the country was adopted in 1998 (table 47). The state body responsible for the formulation of tariff and non-tariff policy is the Ministry of Foreign Trade and Industry. It is interesting to note that the trading restrictions in Kyrgyzstan before 1995 were dominated by non-tariff restrictions.

In the period 1995-1996, growth rates of foreign trade were high as a result of trade liberalization, a policy aimed at macroeconomic stabilization initiated by the Government in 1994, and significant inflows of foreign financial assistance. As table 47 shows, since 1994 Kyrgyzstan has started the elimination of basic barriers to trade: export and import licensing and taxation, while by the end of 1995 the last export duties were eliminated.

Until 1999, a uniform 10 per cent import duty on all imported goods was imposed. Privileges were provided for goods transported in accordance with the terms of loan agreements signed by Kyrgyzstan with international financial institutions and some countries. There were also exemptions for enterprises and economic entities importing raw material and other inputs required for the manufacturing of final products.⁹⁷

Thus, despite having a homogeneous tariff of 10 per cent, the tariff system of Kyrgyzstan had many exemptions, which were difficult to administer. This led to opportunities for illegal import and as a result, the country established a system of differential custom tariffs in 1999.

Table 49 shows that trade turnover increased by 44.2 per cent in 1996 as a result of an increase in the import of investment goods for several large projects started at the end of 1995.

⁹⁶ Reports on the Social-Economic Situation of Kyrgyzstan; National Statistic Committee of Kyrgyzstan, Bishkek; 1995-2000.

⁹⁷ Normative Acts of Ministries and Agencies of Kyrgyzstan, Bulletins of the Toktom Informational Centre; Bishkek, 1997-2000.

In 1997 trade turnover of the country declined due to a reduction in both exports (despite sharp growth of export of non-ferrous metallurgy products) and imports. The decline of exports in 1997 was the result of domestic internal factors, basically related to taxation, and external ones, basically related to the Asian and world-wide crisis. The Tax Code of Kyrgyzstan, which came in effect in the middle of 1996 cancelled preferential treatment of import of raw sugar which resulted in declines in export and import of white sugar. In addition, the introduction of the excise tax on import goods in the CIS countries at the end of the first quarter of 1997 also contributed to the reduction of exports from Kyrgyzstan in 1997.

The decline in imports in 1997 was the result of the completion of the construction of some investment projects, a change in taxation, decline of import of basic kinds of mineral oil, and growth of domestic production of and introduction of customs duties on diesel fuel and black oil.

In 1998 the trends started in 1997 continued. The share of non-CIS countries continued to increase and accounted to half of general trade turnover as a result of the growth in the export of gold. In the same year, the share of CIS countries fell rapidly as a result of lagging demand for electric power and sugar from Kazakhstan and Uzbekistan. In 1998 Kyrgyz sugar had lost its price competitiveness. The export of electric power fluctuates due to unpredictable factors such as weather conditions: for example, a rather rainy summer in 1998 reduced neighbouring countries' demand for water from Kyrgyzstan for irrigation of their fields. The sale of water enables Kyrgyzstan to generate electricity and as a result electricity supply was affected in 1998. In 1998, imports rose by about 32 per cent from the year before, mainly as a result of a rise in imports from non-CIS countries such as consumer goods, sugar, and raw materials and inputs, including new technologies and equipment, for the manufacturing of final products. Kyrgyzstan's accession to WTO has not led to export growth so far. In fact, in 1999 trade turnover of the country declined by 22.5 per cent from the year before as a result of the financial crisis in the Russian Federation which led to declines in export to and imports from the Russian Federation, reduction in shuttle trade, and introduction of trade barriers by Kyrgyzstan's neighbours, Kazakhstan and Uzbekistan in the form of safeguards and other restrictive measures affecting the movement of vehicles and cargo through the customs territory of these countries. In addition, the devaluation of the national currency, the som, led to prohibitively high costs for domestic business men and traders to travel abroad, while the devaluation of the currencies of Kazakhstan and Uzbekistan rendered Kyrgyz exports to these countries even more uncompetitive and relatively expensive.

In 2000, overall trade turnover remained at the level of 1999, but exports increased by 11.2 per cent and imports decreased by 7.7 per cent. Moreover, trade turnover with non-CIS decreased by 6.8 per cent due to a decline in imports of electric communication equipment and medical products. It can be observed that in 2000 exports to countries outside the sub-region were higher than imports and that the trade balance with these countries turned positive for the first time in the past few years to about \$ 31.5 million. Trade turnover with China, Germany, Turkey, the United States, and other countries increased, mainly as a result of a rise in imports, with the exception of Germany. Germany is the only country which saw a rise in exports from Kyrgyzstan, of which 98 per cent is made up of ore metals. In the same year, turnover with CIS countries rose by 6.8 per cent, mainly as a result from an increase in supply of industrial goods and electricity to Kazakhstan. There was also sustained growth of exports of raw material and precious metals.

Since 1999 imports have been declining as a result of reduced purchasing power of the people, a decline in investments requiring imported inputs, and the elimination of the irrational trade regime which had existed before. Imports continued to decline in 2000, mainly due to reduced imports from non-CIS countries. This decline was offset by a rise of exports to both CIS and non-CIS countries, leading to a reduction of the overall trade balance deficit by about three times.

In the period 1999-2000, the trade orientation of Kyrgyzstan has continued to be directed at non-CIS countries, while the share of CIS countries in total export-import transactions of the country has steadily declined. The main reasons for the decrease of trade with CIS countries were the deterioration of trade conditions: high inflation, a complicated system of mutual settlements (problem of non-payments), introduction of non-tariff barriers, a rapid rise in prices of raw materials and increase of costs of transportation of mutually supplied goods. But the main reasons for the recession are the overall stagnation of the economies of CIS countries, and their non-competitive products, except perhaps primary products.

Despite all measures taken by the Government, the share of import in trade turnover has continued to be higher than the share of export and as a result, the trade balance has been consistently negative in Kyrgyzstan. The deficit was as high as 20.1 per cent of GDP in 1998, and 12.3 per cent in 1999, but has continued to improve. In 2000, the deficit was reduced by 3 times from \$ 145.1 million in 2001 to \$ 49 million. The lowest deficits were noted in 1994 (5.2 per cent) and in 1997 (5.8 per cent).⁹⁸

⁹⁸ National Bank of Kyrgyzstan, Annual Reports; Bishkek, 1995-2000.

(b) *Tariff regulation*

Tariff regulation is the basic method of state control of the structure of foreign trade. After accession, Kyrgyzstan adopted a system of differential tariff rates. The Customs Tariffs for 1999 were determined on the basis of Kyrgyzstan's commitments under the Customs Union with reference to the Common Customs Tariff and national interests. The Customs Tariff for 1999 included 13 tariff rates (0, 1, 5, 7, 8, 10, 12, 15, 17.5, 20, 25, 30, and 50 per cent). Import customs rates of 0, 1, 5, 7, and 10 per cent covered 85 per cent of total commodity positions.

The Customs Tariffs for 2000 were determined on the basis of the Customs Tariff for 1999, but the number of tariff rates was reduced (following IMF recommendations) to four rates (0, 10, 17.5 and 20 per cent). Taking into account, that by 2005 Kyrgyzstan needs to complete accession to the sector initiatives (see table 3) on a stage-by-stage basis changes were made in 34 groups of the Customs Tariffs for 2000. The maximum custom duty rate decreased from 50 to 20 per cent. As a result of the changes mentioned above, the average level of custom duty rates decreased from 9.18 per cent in 1999 to 5.2 per cent in 2000.

The Customs Tariffs for 2000-2001 were determined on the basis of special needs of industrial sub-sectors in the infancy stage of formation and expansion of manufacturing production capabilities.⁹⁹ For that purpose, low rates were established on imports of required raw materials and modern equipment while at the same time trade liberalization commitments were sustained.

According to Kyrgyzstan's WTO commitments, the country reviews customs duties on imported goods on an annual basis. In the meantime, customs duties on import remain the unique tool for trade regulation.

The Customs Tariffs for 2001 consist of six rates (0, 5, 6.5, 10, 17.5 and 20 per cent) with an average duty rate of 5.15 per cent.

(c) *Non-tariff regulation*

Upon accession to WTO Kyrgyzstan committed not to establish, re-introduce or apply quantitative restrictions on imported goods or apply other non-tariff measures, such as licensing, quotas, interdictions, sanctions, requirements for preliminary approval, and other restrictions which cannot be justified under the WTO Agreements.¹⁰⁰ Import and export quotas were eliminated, while import

⁹⁹ Toktom Informational Centre Bulletins, op.cit.

¹⁰⁰ WTO/ACC/KGZ/26, op.cit.

and export licensing for the majority of goods were cancelled as well. The number of commodity subgroups subject to licensing in 1992 was reduced from 17 to 8.

In Kyrgyzstan, there is a unified system of import licensing which is applied to goods related to arms and military engineering, including explosives, nuclear materials, technologies used for military purposes; virulent poisons; drugs (including those used in pharmacies) and psychotropic substances. The licensing system does not aim to restrict imported goods in terms of quantity or cost. Licensing of goods in Kyrgyzstan is carried out for purposes which comply with world practice and WTO rules, such as:

- National security;
- Compliance with international obligations;
- Protection of life and health of people, animals and flora and the environment as a whole;
- Maintenance of public law and order;
- Protection of the financial position and maintenance of the balance of payments of the country.

The coverage of non-tariff measures (licensing) is limited to the list of goods authorized by Parliament, which are not subject to administrative measures.

(d) Regulation of trade in services

By the time of accession of Kyrgyzstan to the WTO, trade in services was a new area of concern. Legislation and regulation of trade in services were lacking and no priorities for national policy in this area had yet been formulated. However, the negotiations on access to the market of services were concluded rather quickly as a result of the liberal policy of the Government for the development of the services sector.

Two types of restrictions on services were of concern: restrictions regarding national treatment and restrictions to market access. Kyrgyzstan accepted the obligations on national treatment as current regulations did not differ much. With regard to market access, the country accepted a few more obligations than were already currently applied.

These days, a major issue is the evaluation and extension of Kyrgyzstan's position in the international system for trade in services. Major adjustments are still required to allow for full integration of the country into the multilateral

trading system for services, including a detailed review of the whole range of services required for sustainable development.

First of all, the Government should support the establishment and development of small and medium sized businesses in the service sector as they only need a small initial capital for start-up but would contribute to a reduction in unemployment.

Secondly, statistics on services should be improved as they currently only cover a small part of the services sector.

(e) *Protection of intellectual property rights*

Table 47 shows that in 1998 Kyrgyzstan had a rather extensive normative-legal base for the protection of intellectual property rights. The country has developed and adjusted its legislation and integrated the latest views and trends in the area of copyright and neighbouring rights¹⁰¹ and met all requirements of the TRIPs Agreement. It should be pointed out that after adoption of these laws additional amendments were made to the Criminal Code, the Code on Administrative Responsibility, and also the Customs Code of Kyrgyzstan stipulating concrete penalties for the violation of copyrights and neighbouring rights and reflecting all adjustments made to the above-mentioned laws.

The State Agency on Intellectual Property under the Government (Kyrgyzpatent) is the responsible state agency for the implementation of state regulations and management in the area of copyrights and neighbouring rights. Kyrgyzpatent develops and prepares legislation on protection of copyrights and neighbouring rights, and also formulates sub-legal normative acts (normative acts of a state body and adopted in accordance with existing legislation) and their implementation in compliance with the existing legislation. Also it fulfills the functions of a body registering authors and their works, and compulsory transfers of the right to use objects of copyright and neighbouring rights. It is not a body having powers of enforcement. The powers of enforcement under the legislation of Kyrgyzstan are assigned to law enforcement bodies, including the judiciary, who base their activities on the norms and regulations existing in the legislation of Kyrgyzstan in the field of copyright and neighbouring rights.

Until 1998, intellectual property rights as such were not protected to the same extent as they are now protected under the new laws. All achievements of creative activity of separate citizens of the former Soviet Union belonged to the

¹⁰¹ Neighbouring rights usually cover rights of performers, phonogram producers and rights of broadcasting organizations.

people and were used by all and everywhere. The concept of intellectual property rights was not recognized. The country now faces a psychological barrier to charge offenders of intellectual property rights. Therefore it is necessary to train and prepare all employees of law enforcement bodies and to hold a number of seminars for representatives of law-enforcement, customs and judicial bodies of the country to learn about the experiences of countries having already established a coordinated system for the monitoring and enforcement of intellectual property rights.

In conclusion, the problem of legal protection of intellectual property rights in Kyrgyzstan is more or less solved: there is a legal framework and the activities of Kyrgyzpatent are regulated, but there are real problems with enforcing the laws and regulations in this area.

(f) *Agriculture*

In Kyrgyzstan agriculture is a very important sector. As mentioned before, Kyrgyzstan did not get the status of developing country in agriculture but was allowed concessions and privileges provided for developing countries. As a result, Kyrgyzstan may use special and differential measures including investment subsidies that are considered to facilitate development.¹⁰² This means that investment subsidies may be used without any restrictions even after Kyrgyzstan completes its five year transition period.

As export subsidies are prohibited by the WTO, export subsidies in the agricultural sector cannot be used in the future which is already in line with domestic legislation. Kyrgyzstan can use the following measures with regard to support to the agricultural sector:

Green box¹⁰³ – no upper limit;

Special and differential regime (investment subsidies) – no upper limit;

Support measures – *de minimis* is five per cent.

¹⁰² WT/ACC/KGZ/3, op.cit.

¹⁰³ Measures with minimal impact on trade can be used freely – these are in a “green box” (“green” as in traffic lights). They include government services such as research, disease control, infrastructure and food security. They also include payments made directly to farmers that do not stimulate production, such as certain forms of direct income support, assistance to help farmers restructure agriculture, and direct payments under environmental and regional assistance programmes (see WTO; “Trading into the Future”, March 1999).

(g) *Kyrgyzstan's participation in regional trading arrangements as a WTO member*

As was mentioned before, Kyrgyzstan is a member of a number of regional associations, such as the Commonwealth of Independent States (CIS), Central-Asian Economic Union (CAEU) and Customs Union (CU). The CU and CAEU aim at establishing a free trade areas among its members.

The member countries of the Customs Union signed the Agreement on the Common Customs Tariff on February 17, 2000. Participants in this Agreement agreed to a List of Uniform Rates of Import Customs Duties for Belarus, Kazakhstan and the Russian Federation. Currently, this List covers about 60 per cent of all import categories. The Agreement on the Common Customs Tariff provides for a five year transition period (until 2005) for the establishment of a Common Customs Tariff allowing for accession of Kyrgyzstan and Tajikistan to this Tariff on a stage by stage basis. Thus, the Common Customs Tariff is currently only binding for three members of the CU.

A Free Trade Area allows participating countries to use different tariffs with respect to third countries. The WTO allows departure from the application of MFN for countries participating in free trade areas or in customs unions. Thus, Kyrgyzstan's commitments under most regional trading arrangements do not conflict with its obligations as a WTO member. However, it is a different matter with the Customs Union, where participating countries must use common customs tariff and non-tariff regulation with respect to third countries.

Custom tariff rates of Kyrgyzstan as a WTO member are much lower than the rates of the Common Customs Tariff. The other CU members are of the opinion that further harmonization of tariffs within the framework of the Common Customs Tariff is difficult. However, as each of them is in the process of accession to WTO, there is an agreement that the Common Customs Tariff will be changed in view of each country's commitments as a new WTO member and that, therefore, Kyrgyzstan will join the Common Customs Tariff of the CU on a gradual basis.

However, CU partners also observed that with each country's commitments as pending member of WTO, the overall interests of the CU in the WTO should be defended. Taking into account the current situation with the Common Customs Tariff, member countries of the Customs Union have agreed that after completion of negotiations on tariff concession of each CU members with WTO, Kyrgyzstan will start negotiations with WTO Member Countries on modification of Schedules of Commitments in accordance with Article XXVIII of GATT. In this context, it should be pointed out that harmonization of tariffs is a difficult and long process as the experiences of the European Union has demonstrated.

The conclusion is that countries acceding to WTO and also participating in regional trading arrangements, should coordinate their position in the accession negotiations with their trade partners in the regional trading arrangements in order to avoid problems with their partners in the future.

4. Conclusions and recommendations

(a) Fulfillment of WTO obligations

The most important activity in Kyrgyzstan in the aftermath of WTO membership has been the creation of the required legal and institutional infrastructure for the effective introduction of WTO standards and rules in economic and trade policy of the country.

After accession to the WTO, the Government appointed the Ministry of Foreign Trade and Industry as the main government body responsible for coordination of activities with WTO. For the purpose of coordination among ministries and administrative departments for the implementation of the WTO Agreements and to formulate a coordinated approach to Kyrgyzstan's participation in the multilateral and bilateral negotiations within the framework of the WTO, the Interdepartmental Commission on the World Trade Organization was created under the Government replacing the previous one. The Interdepartmental Commission is headed by the Vice-Prime Minister and Minister of Foreign Trade and Industry and consists of deputy ministers and heads of administrative departments, which carry responsibility for the implementation of WTO obligations of Kyrgyzstan and coordination of activities of all agencies involved in this process.

In addition, information centers were created at different ministries and departments. The main Information Center (IC) was set up at the Ministry of Foreign Trade and Industry, with principal objective to consolidate all information on WTO, including the legal texts of WTO Agreements, additional resolutions, information about trade regimes and commitments of other WTO members, literature on WTO, etc. Thus, the IC is a central storage library for all WTO documents and it serves as reference bureau for responses to inquiries from other WTO members on Kyrgyzstan.

An Information and Consultation Center on Standards, SPS and TBT was established at the State Inspection Body on Standardization and Certification (Kyrgyzstandart), and its functions include collection of information on international, European, regional and national standards, organization and conducting training seminars on international standards, and development of instructions for the introduction of standards. Though Kyrgyzstan did not assume obligations with

respect to the schedule of introduction of international standards, it committed to provide yearly reports about its activities and progress on harmonization of national standards with WTO requirements until the harmonization process is completed. There are some difficulties with the implementation of the TBT and SPS agreements, because the country lacks possibilities for taking full part in the activities of international organizations for standardization for the following reasons:

- lack of adequate financial resources;
- absence of specialists with experience in the area of international standardization;
- underdeveloped infrastructure, necessary for the development of standards and technical norms.

In order to effectively implement WTO commitments and agreements, it is essential to actively develop human resources through the following modalities:

- introduction of courses or lectures in institutions of higher education on legal principles, agreements and resolutions of WTO;
- conducting seminars and courses for both public sector, private sector and NGOs;
- Preparation and distribution of special reference material on these issues.

It would also be necessary to create an appropriate reference service on issues related to protection, procedures of acquisition and maintenance of intellectual property rights at the State Agency on Science and Intellectual Property and to strengthen the enforcement of the laws in this area by the concerned law enforcement bodies.

Since WTO issues and agreements are rather complicated and cover a wide range of areas such as agriculture, intellectual property, standards, services, customs tariffs, anti-dumping, subsidies, regionalism and others, it is necessary for acceding countries to establish an institutional framework responsible for the coordinated implementation of policies related to WTO and WTO Agreements, in particular as WTO rules are inextricably linked with foreign economic policy. Only then, a country could take full advantage of the WTO.

In this context, it should be pointed out that, while basic legislation on foreign trade and WTO Agreements is already in place upon accession, there is still a need to formulate rules and procedures for the implementation of the basic

laws. As such, mechanisms for the implementation of WTO Agreements as embodied in national laws need to be developed, in particular:

- Procedures for the implementation of laws on intellectual property with respect to counterfeit and pirated goods;
- Procedures for the implementation of simplified customs procedures, new WTO rules about the origin of goods, and other customs rules and procedures;
- Regulations on government procurement in connection with future negotiations on joining the Agreement on Government Procurement.

The adopted laws on Anti-dumping, on Subsidies and on Countervailing Measures and Safeguards were completely new for Kyrgyzstan. The procedures for investigation stipulated by these laws are very complicated, and countries like Kyrgyzstan would need a long time to be able to conduct investigations of this kind. In fact, currently only developed countries are able to conduct such trials. In this context, it would be necessary to create working groups consisting of competent experts for the preparation of all relevant material and evidence for such investigations. Thus, human resource development in this area would also be highly essential, and in addition to WTO could be undertaken by other WTO members, which have experience in the implementation of WTO Agreements on Anti-Dumping, Subsidies and Countervailing Measures and Safeguards.

(b) Overview of recommendations

Based on its limited experience with WTO membership, Kyrgyzstan proposes the following recommendations to countries in the process of accession, WTO and ESCAP:

For countries in accession:

- Acceding countries must make maximum use of their observer status at WTO to be better prepared for negotiations on accession to WTO. In particular, they should attend Working Party's meetings on accession of other countries to get a direct idea about the complexity of such negotiations.
- Significant efforts must be made to create an effective governmental mechanism for the conduct of negotiations on accession to WTO. Such a mechanism should be based on a professional negotiation team with competence on many issues, which may arise in the course of negotiations.

- The longer the country delays accession to WTO the more restricted terms and conditions will be. As a result, countries aspiring membership of WTO should take urgent steps and preparations and avoid undue delay.
- During the negotiations, countries should take their own economic interests and the future development of priority sectors in the economy into account before committing themselves. Long-term implications of commitments and obligations should be carefully studied before accepting them.
- Countries should start the bilateral negotiation process at a relatively high level of tariff rates with the purpose of making concessions to reduce them to levels acceptable to the country.
- Countries should avoid a national trade policy and regime which contains obvious contradictions with WTO rules and agreements and should avoid excessively detailed information in response to queries as too much detail gives rise to requests for further clarifications, delays in the accession process and further obligations for the country upon accession.
- Due attention should be paid to training of specialists on different WTO Agreements (TRIPs, TRIMS, Agriculture, Services and others).
- Countries should make active use of technical assistance and consultancies from international organizations and governments of WTO Member Countries in the preparation of required documentation, and human resource development.

For WTO:

- It is necessary to expand the staff of the WTO Division on Accession and delegate staff of that Division to the countries in the process of accession in order to render advisory assistance in areas such as terms of accession, registration of documents, preparation of proposals on tariffs and services etc.
- The funding for this delegation can be obtained from technical assistance funds of governments of the WTO Member Countries, available for countries in accession.

For ESCAP:

- Pending a new round of negotiations, ESCAP could provide assistance to developing countries in strengthening their national conditions for export and in building capacity for improving WTO Agreements in their interest. In this respect, a preparatory meeting for developing countries in the region before the Fourth WTO Ministerial Conference to be held in Qatar in November, 2001, could be organized in order to assist developing countries to prepare a consolidated position for participation in the forthcoming Ministerial Conference.
- ESCAP could provide advisory services to selected developing countries on their participation in the new round of negotiations through the delegation of ESCAP experts to these countries.

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F. Tajikistan¹⁰⁴

1. Introduction

This paper reviews trade policy in Tajikistan and the country's preparations for accession to the WTO. The paper was prepared for the Subregional Workshop on Accession to WTO-Economies in Transition which is organized by the Economic and Social Commission for Asia and the Pacific (ESCAP) in cooperation with the Ministry of Foreign Economic Relations of the Government of Uzbekistan in Tashkent from 25 to 27 July 2001.

2. Tajikistan: an economic overview

The Republic of Tajikistan started the process of radical social-economic reforms, restructuring of the political system and establishment of a democratic and secular state in 1991 as an independent state. Unfortunately, as a result of the break-down of existing interstate relations within the former Soviet Union the country witnessed a long-term macro-economic and socio-political crisis in the country. The situation was deteriorated by natural disasters and most of all, civil conflict, which contributed to the destruction of the national economy.

Stability was restored only in 1997 with the signing of a peace agreement between the Government of Tajikistan and the United Tajik opposition and a new coalition government was established. The peace and reconciliation process, supported by the international community, has progressed well since then and has facilitated the rehabilitation of the national economy and rendered economic growth.

Between 1991-1997, the level of GDP diminished by more than 60 per cent which significantly reduced the living standards of the less protected part of the population. The GDP per capita rate of Tajikistan is one of the lowest among CIS countries. The average salary rate still remains low in Tajikistan. Much of the country's production infrastructure is in urgent need of repair and restoration after years of war damage and due to the lack of proper maintenance.

Tajikistan is an agrarian country. Almost half of the labour force is employed in the agricultural sector while more than 70 per cent of the total population lives in rural areas. A favourable bio-climate condition renders opportunities for the

¹⁰⁴ Based on a paper prepared by Mr. Negmatullo Inoyatov, Head, Department of Relations with non-CIS Countries, Ministry of Economy and Trade, Tajikistan.

significant development of this sector. In particular, Tajikistan has great potential for cotton growing.

In line with the President's program of reforming the agricultural sector, 75 thousands hectares of land-plots were distributed among the rural population. In 2000, 10,800 farm enterprises operated in Tajikistan. This allowed an increase of the value of grain production up to 600,000 metric tons per year. However, it should be emphasized that the agricultural sector of the economy is in a difficult situation because of the absence of adequate equipment and technology and an undeveloped infrastructure.

The industrial sector witnessed an uneven development and is dominated by a few sub-sectors, such as metallurgy and light industry. The largest industrial plant is the huge aluminium smelter (TadAZ), with annual installed output capacity of more than 550,000 tons of aluminium. There is no adequately developed mining and chemical industry, though these sub-sectors have great potential.

The country prospected more than 400 deposits of mineral sources and has big deposits of gas and fuel. Tajikistan also has large capacity for the production of hydro-electricity power (more than 400 bln. kV) and disposes of large water resources.

During 1998-2000 almost all sectors of the national economy witnessed output growth. According to official statistical data for 2000, GDP growth was 8.3 per cent. Industry accounted for 20.5 per cent of GDP in 2000, agriculture 17 per cent, and services 39.1 per cent.

3. Trade and investment policies

(a) Introduction

In 1998 the Government of Tajikistan in collaboration with the IMF adopted a new medium-term program of economic reform for the period of 1998-2001, which aims to achieve macro-economic stability in the country. The key targets of the Program are: (a) maintenance of economic growth at a level of 6 per cent during whole period of Program implementation, (b) reduction of the budget deficit up to 1.6 per cent of GDP in 2001, and (c) reduce annual inflation to a level of 13 per cent.

Significant success was achieved in the implementation of structural reform policies. Following privatization of the small enterprises, attention will be given to privatization of large-scale enterprises. In 2001, the Government intends to

privatize in addition 130 entities and increase the implementation of large-scale enterprise privatization up to 40 per cent.

(b) *Promotion of foreign direct investment*

Since independence the legislative and regulatory framework for the establishment of a market-oriented economy in the country has been developed. The Law on Privatization of State-Owned Property encourages the participation of foreign investors in the privatization of the national economy.

Within the context of bilateral relations the Government of Tajikistan signed agreements on promotion and mutual protection of investments with a number of countries, which form the basis for the regulatory framework for investment activity in Tajikistan. At present, more than 210 joint ventures are established in Tajikistan. The main areas of activities of joint ventures are textiles, output of necessary products, export-import operations, agro-processing, construction and construction materials, telecommunications, and mineral resources exploration.

Big enterprises, such as Tajik-British "Zarafshon" and "Darvoz" in the field of gold exploration, Tajik-Korean "Tajik-Cabool-Textiles", Tajik-American "Khujand" and Tajik-Italian "Javony" in the field of cotton processing are already operating in Tajikistan.

In line with objectives of the Government, the investment program for 1999-2001 targets foreign direct investment for construction of a water-energy-station, exploration and processing of mineral resources, cotton-processing and export of textiles, production and export of citrus, processing of cattle breeding products and production of final goods, increasing of output of fertilizers, production of consumer goods, reconstruction and modernization of existing agricultural capacities, creation of progressive and scientific industrial sub-sectors, and development of the telecommunications system.

With regard to the external economic sector, the Government of Tajikistan has implemented reforms since independence. The main principles and rules of the external economic activities in Tajikistan are determined by the Law on Foreign Economic Activities of Tajikistan, adopted in 1993. This document creates the basis for activities of all foreign economic subjects in a country, protects their rights, interest and properties in accordance with accepted standards of international law on a fair and equal basis and strengthens integration of the national economy into the world economy.

Another important legislative act regulating external economic activity is the Law on Foreign investment, adopted in 1992 (amendments and additional

remarks made in 1996, 1997 and 1999). This law, which creates a quite favorable investment climate for foreign investors, secures the rights and interests of foreign investors and economic subjects.

(c) *Trade liberalization*

The adoption of the two legislative acts mentioned above in the early stage of reform allowed the strengthening of trade-economic relations of Tajikistan with the rest of the world. But economic reforms have progressed well since 1995 after the adoption of the resolutions on Foreign Trade Liberalization in the Republic of Tajikistan on 27 June 1995 and on Liberalization of Currency and Export Operation on 24 February 1996. Administrative constraints and trade protective measures have been gradually removed. Since 1 February 1996 the quota and licensing system in a country have been eliminated. Later, in February 1997, the obligatory examination of import-export contracts was also abolished. At present Tajikistan's foreign trade policy is oriented towards development of the export potential of the country. Tajikistan has an undesirable trade structure: the main share of export is made up by raw materials, while inefficient imports are dominated by foodstuffs and energy-products.

The Government has applied a progressive approach to trade liberalization. Initially, liberalization covered practically all export categories, except a few items, including cotton and aluminium. During the second stage, 1996-1997, the Government gradually liberalized trade in the two main export items: cotton and aluminium and established necessary financial institutions, such as the Cotton-Exchange, and the Tajik Universal Commodity and Raw Material Exchange. All these measures allowed an increase of the export potential of the country and stimulated foreign trade. As a result, since 1996 Tajikistan has maintained a positive trade balance, to some extent, has led to the normalization of currency transactions and balance of payments stabilization.

During 1995-1997, 100 per cent pre-payment mechanisms for a limited range of export categories (ten items) were introduced. For other exports payment periods were limited from 90 up to 120 financial days. These measures were reluctantly introduced in order to develop a proper mechanism for currency transactions.

In order to stimulate exports and promote foreign trade the Government of Tajikistan adopted an export promotion policy. Export duties were abolished and differential rates for import duties were adopted. It should be pointed out that the accepted rates of import duties are generally lower than those in neighbouring countries, except Kyrgyzstan.

Since independence, Tajikistan has created trade-economic links with more than 80 countries all over the world. These trade-economic relations are developed on the basis of bilateral agreement and treaties on trade-economic co-operation, which routinely include a clause on most-favoured nation (MFN) treatment.

At the same time, Tajikistan pays attention to the development of relations within the framework of regional trading arrangements and custom unions. Today Tajikistan is a member of the Euro-Asian Economic Community, CIS, Central-Asian Economic Community, ECO and so one. Membership in such arrangements and organizations provide opportunities to the country to benefit from privileges granted by all member countries.

(d) Current trade regime

With the purpose to implement the Treaty on strengthening integration and regional cooperation in the economic and humanitarian fields among Belarus, the Russian Federation, Kazakhstan and Kyrgyzstan, dated 29 March 1996, and taking into consideration the fact that Tajikistan joined the Agreements establishing the Customs Union, dated 20 January 1995, the Government introduced a new tariff regime by Resolution no.1 dated 7 January 1999.

In accordance with this resolution, zero import tariffs were introduced for products originating from Customs Union Member countries. Also, a preferential regime and fixed zero tariff rates with respect to the least developed countries were introduced.

On average, tariff rates in Tajikistan vary from 5 up to 30 per cent, depending on the import item.

As mentioned before, there are no export and import non-tariff barriers in Tajikistan. Exceptions are exports and imports which have an impact on state security of the country, such as defense, health care, cultural artifacts and antiques and so one. The Government also controls the export and import of electricity and natural gas.

(e) Foreign trade analysis

After independence the direction of foreign trade of Tajikistan changed significantly. At the beginning of the 1990s about 85 per cent of the country's foreign trade was with countries of the former Soviet Union. With the rupture of traditional trade and economic links within the former Soviet Union System and the collapse of the payment system Tajikistan was forced to seek for new markets. Preference was given to Western European countries, where the biggest aluminium

and cotton exchanges are located. As a result, the share of non-CIS countries in Tajikistan's foreign trade turnover increased to a level of 50-70 per cent in 1994-1997. Among the main trading partners of Tajikistan are Belgium, Germany, Italy, Liechtenstein, Netherlands, Switzerland and the United Kingdom. The main exports to these countries are raw cotton and aluminium.

Since 1998 Tajikistan has restored trade-economic links with its traditional partners in the CIS and share of these countries in Tajikistan's foreign trade increased to a level of 55-60 per cent (table 52).

Table 52. Foreign trade turnover of Tajikistan during the period of 1996-2000 (US\$ m)

	1996	1997	1998	1999	2000
Foreign Trade of Tajikistan, total	1 438.2	1 581.2	1 307.6	1 455.7	1 453.4
Including:					
CIS countries	713.5	813.4	785.5	797.1	927.6
Non CIS countries	724.7	767.8	522.1	658.6	525.8
Export from Tajikistan	770.1	784.7	596.7	688.7	779.1
Including:					
CIS countries	331.0	310.9	223.0	281.6	368.6
Non CIS countries	439.1	473.7	373.7	393.8	410.5
Import to Tajikistan	668.1	796.6	711.0	663.8	674.3
Including:					
CIS countries	382.5	502.5	562.6	515.5	559.0
Non-CIS countries	285.6	294.1	148.4	264.8	115.3

The analysis shows that the commodity structure of foreign trade is very straightforward. The undesirable foreign trade structure of Tajikistan is dominated by export of raw materials and import of food stuff and energy sources. At present the Government of Tajikistan has taken some measures to stimulate domestic producers to develop import substitution industries (figures 5 and 6).

4. Preparations for accession to WTO

In according with the priorities of the Government of Tajikistan, declared in program documents and resolutions, the country aims to deepen the integration of its national economy into the world economy. In this context, one of the key issues of the external economic policy of Tajikistan for the nearest future will be accession to the WTO.

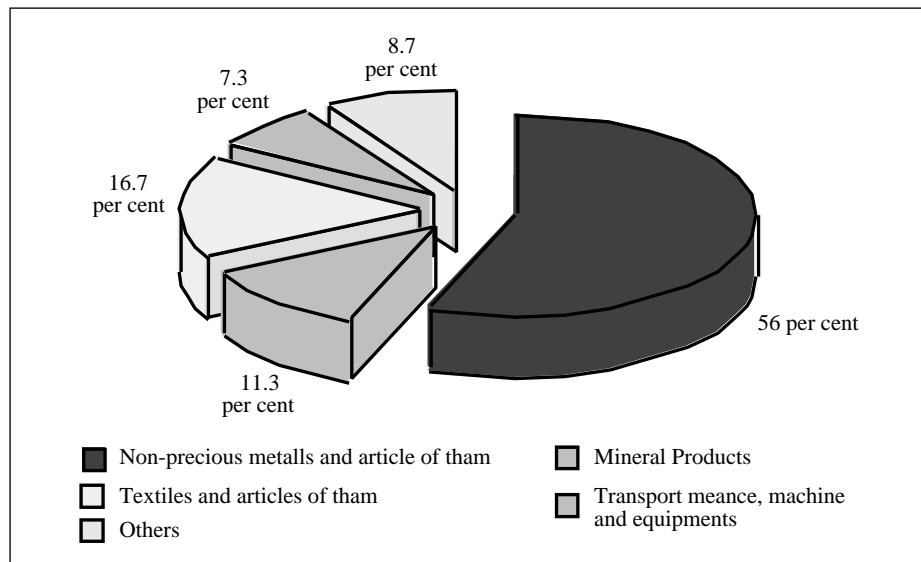


Figure 5. Commodity structure of Tajikistan's export

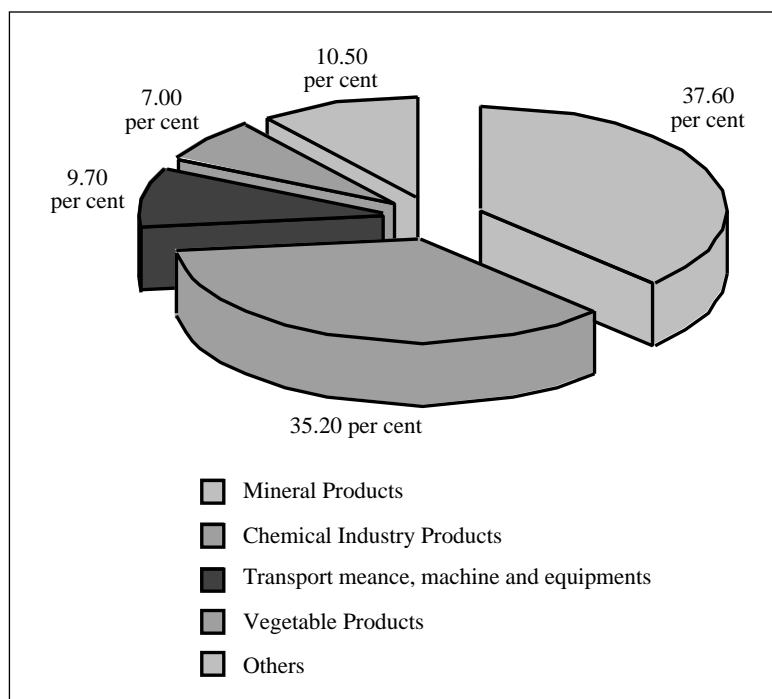


Figure 6. Commodity structure of Tajikistan's import

It is well known that the WTO is the legal and institutional foundation of the multilateral trading system. Most nations, including almost all the main trading nations, are members of this system. The system's overriding purpose is to help trade flow as freely and fairly as possible, as long as there are no undesirable side effects.

Under the WTO Agreements, countries cannot normally discriminate among their trading partners. This point is very important for the young and sovereign nation of Tajikistan, which is on its way to establish a democratic and secular state and market-oriented economy.

However, it cannot be denied that the accession process is a long and laborious process. It requires adoption of a lot of legislative acts, so as to conform the national legal framework to the rules and regulations of WTO; and involves comprehensive and intensive negotiations with all WTO members concerning trade regimes, tariff and non-tariff measures, eliminating barriers in international trade and so on.

As mentioned before, the Government of Tajikistan has already established a rather developed legal framework which would meet world standards. The trade regime in the country is currently sufficiently liberalized. Tariff and non-tariff barriers have been reduced to a minimum. By Government Decision no. 10-r dated 4 February 1999, a Working Group – the Interdepartmental Commission on WTO Accession Material Preparation, headed by the Deputy Minister of Economy and Trade of Tajikistan, was established.

This Working Group maintains close contacts with UNITAR, and the SECO Secretariat (the Swiss State Secretariat for Economic Affairs and Co-ordination Office for Issues related to WTO Accession). A series of seminars and workshops jointly organized with UNITAR in Dushanbe during 1999-2001 attracted high level officials from government bodies, members of the Working Group, and parliamentarians.

The main issue for Tajikistan during the accession process will be TRIPs. Tajikistan has a National Patent and Information Center within the Ministry of Economy and Trade. Among the main responsibilities of this Center is the protection of state interests in the areas of invention, industrial samples, trade mark and service marks. Tajikistan is represented in the International Union for the Protection of New Varieties of Plants (UPOV) and is the member of the Euro-Asian patent convention.

Also, Tajikistan has taken measures to implement the stipulations of the TRIPs Agreement related to protection of copy (author's) rights. At present,

within the Ministry of culture of Tajikistan, there is an agency for copyrights. Tajikistan is a member of the World Convention on Copyrights, and since March 2000 – a member of the Bern Convention on protection of works of literature and art. Tajikistan created the legislative framework in line with world standards. On 13 November, 1998 the country adopted the Law on Copyrights, which passed an examination of WIPO and protects authors' rights in accordance with the international conventions.

These facilities and arrangements lay the basis for an accelerated accession of Tajikistan to WTO.

Tajikistan formally applied for WTO membership in May 2001. Unfortunately, Tajikistan is among the last among the CIS countries to have formally submitted its application. According to the requests of the Tajikistan delegation to the WTO General Council, Tajikistan's application will be considered at the next WTO General Council Meeting on 18 July 2001.

5. Conclusions

With reference to integration of Tajikistan into the Multilateral Trading System and, particularly, the accession of the country to the WTO, it should be pointed out that Tajikistan as a country with a relatively small economy and limited possibilities for international trade will not have a major impact on international trading conditions. In this respect, accession to the multilateral trading systems is vital for the country as it would accord the country protection from discriminatory trade practices of the main trading nations and most favoured nation treatments under the various WTO Agreements.

Accession to the WTO would have the following advantages for the country:

- to benefit from MFN treatment under the various WTO Agreements;
- to benefit from the world-wide free trade rules-based system, including the elimination of restrictive trade barriers and discrimination measures applied to the country in international trade;
- to have access to the international trade information systems, which allow an in-depth analysis of world market structures and conditions and formulation of effective trade and economic policies;
- to have opportunities to consult with WTO Member Countries so as to develop new trade partners and new markets;

- within the framework of WTO it would be possible to train highly qualified specialists in the areas of international trade and external economic relations;
- finally, accession to the WTO would allow the country to strengthen its reputation and image in the world and will create favourable conditions for the attraction of foreign investment to the country.

At the same time, it is essential that the country is well aware of the obligations and commitments it will assume as a WTO member. It will be a challenge to balance Tajikistan's internal interests with meeting WTO Member Countries' demands and to apply a correct approach to the accession process which would protect it from potentially negative consequences as a result of a too hurried accession process.

G. Turkmenistan¹⁰⁵

1. Introduction

This paper was prepared for the Subregional Workshop on Accession to WTO – Economies in Transition, organized by the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) in cooperation with the Government of Uzbekistan in Tashkent from 25 to 27 July 2001. The paper is an attempt to put into perspective the main obstacles to Turkmenistan's accession to WTO. It is organized into four sections. Section 2 offers a brief review of the status of economic reform in the country since it gained its independence in 1991. This is followed by an analysis of Turkmenistan's external sector, trade regulations and tax structure. The final two sections outline the main obstacles to accession to the WTO and a set of long-range recommendations to help improve the country's prospect for accession.

2. Status of economic reforms

Although slow to begin reforms, Turkmenistan's steps towards macro-economic restructuring should improve the business and investment climate. In December 1995, President Niyazov unveiled the "President's Programme for Social and Economic Development in Turkmenistan", an IMF-recommended programme. The Government is voluntarily implementing this programme; Turkmenistan does not qualify for the IMF standby agreement because it does not have a balance of payments problem. Key objectives of the economic reform programme include strengthening and implementing market reforms, making the national currency, the manat, internally convertible, and restructuring the economy. Principal reforms focus on controlling the expansion of credit, managing budget deficits, and liberalizing foreign exchange.

The Government announced ambitious privatization plans for 1996 and 1997. Each Ministry is expected to provide a list of 15 per cent of the bodies reporting to it which should be privatized. This should lead to a further 800 privatized companies, according to the head of the Department of State Property and Privatization. Plans for mass privatization and a voucher system are being developed for larger units (over 330 employees). Only the service sector has been completely privatized; however, constantly changing regulations and tax laws have held back entrepreneurial expansion. The Government did not

¹⁰⁵ Based on a paper prepared by Mr. Mehrdad Haghayeghi, Southwest Missouri State University, United States of America.

formulate an industrial privatization plan until late 1992, and the plan called for privatizing only 10 per cent of plants. It allowed creation of 6,000 small businesses beginning in 1992, but postponed auction sales of middle-sized industrial establishments and large enterprises. The Government has no plans to privatize the energy sectors of the economy or the cotton industry, although it is actively seeking foreign investment to develop these resources.

Under Turkmen law, individuals may own both agricultural land and real estate, but in practice, few do. There are only 100 private farmers. As part of the agricultural reform programme, the Government of Turkmenistan has turned over to private farmers on a lease basis much of the country's arable land, promising to transfer title for parcels of land over to individuals who prove themselves to be good farmers. However, such individuals will not have the right to sell such land. Large state and collective farms still dominate Turkmenistan's agricultural and rural life which undermine farmers' motivation and incentives to perform. The Government maintains a state order system of agricultural procurement, which determines crop mix, distribution, and price. Loss-making farms may be restructured into joint-stock companies or private farms. Opportunities for foreign companies will continue in supplying farm machinery and irrigation equipment, as well as dry land farming technology and seeds. The Turkmen Government has expressed interest in investing in food processing facilities to produce goods for domestic consumption and export; yet it has to date been relatively reluctant to relinquish control of enterprises in this field.

Turkmenistan's industrial sector is overwhelmingly geared towards extraction of gas and the processing of cotton. The most important 45 firms in the industrial and transport sectors, such as national railways and state-owned oil and gas monopoly, Turkmenneftezgas, remain off limits for privatization. As such, industrial sector reform has been slow and in reality non-existent. However, the state-controlled industrial sector has witnessed a shift from labour-intensive light industrial activities towards gas industry. Since 1995, the Turkmen government has been pursuing a policy of import-substitution to allow the domestic industries to grow and flourish. As such, the machine-building, metallurgy, and food processing industries have somewhat benefited from this strategy.

Turkmenistan does not have a financial services sector as is generally recognized elsewhere in the world. The central bank of Turkmenistan known as the State Bank of Turkmenistan (SBT) constitutes the backbone of its financial sector. The SBT until 1997 was only responsible for printing money and extending credit at negative real interest rates on government's behalf. Beginning in 1997, SBT gained nominal autonomy from the Government in an attempt to reform its operations and stabilize the economy along the lines of the IMF program being

implemented elsewhere in the region. President Niyazov, however, continues to intervene in the SBT's decisions. In May 1999, for instance, the head of SBT, Mr. Khudayberdy Orazov, was removed for merely advocating a mildly reformist plan to stabilize the economy.

Finance for the public sector has been largely made available through foreign creditors, as the Government is not in favour of foreign equity investment. The existing commercial banks are state-controlled and lack the financial muscle to be of any substantial help in investment. Furthermore, banking supervision is very weak. The SBT has been following a lending policy that guarantees its loans to state-owned enterprises. But as a result of growing inter-enterprise arrears and chronic late payments on loans, Turkmenistan banks are insolvent by Western standards. Since 1998, the Government has been working to reduce the number of banks to address the issue.

The services sector is poorly developed as result of the Government's emphasis on gas production and import substitution. Although the bulk of the services sector is privatized, low purchasing power and lack of credit have impeded the growth of the sector. More than half of consumer spending in Turkmenistan is in hard currency which the population uses to buy smuggled goods that form the bulk of imported commodities. Most foreign companies supply the small-scale consumer goods market via subsidiaries in the Islamic Republic of Iran, the Russian Federation and Turkey.

3. The external sector

(a) Exports

Turkmenistan's exports depend heavily upon three products: natural gas, cotton, and oil products. After running a chronic trade deficit with the rest of the former Soviet Union prior to independence, Turkmenistan began posting a trade surplus in 1991 as a result of higher gas export prices. Gas export revenue grew during the early 1990s and made up more than 60 per cent of total export earnings in both 1995 and 1996 (although changes in recording practices registered a fall in gas exports in 1996). Turkmenistan's extreme reliance on gas exports plunged the economy into difficulty when gas exports were suspended in March 1997. The country's traditional trade surplus turned into a massive trade deficit in both 1997 and 1998.

Gazprom, the Russian state-controlled gas monopoly, has played a major role in limiting Turkmenistan's gas export market. As a result, Turkmenistan had been required to turn to alternative markets in Ukraine and Transcaucasia. However,

these countries have not been able to pay on time nor to pay the \$ 80 per 1,000 cu meters originally demanded by Turkmenistan. As a result, Turkmenistan received payment for just over 50 per cent of gas exports in 1993 and 1994 and for just under 75 per cent in 1995, the same year in which the price charged to Ukraine dropped to \$ 42 per 1,000 cu meters. Even though most of this trade occurred on barter terms, late payment remained endemic. The IMF estimated that by the end of 1996 the total value of gas payments arrears and debt owed to Turkmenistan had reached \$ 1.6 bn, equivalent to 76 per cent of GDP and larger than Turkmenistan's external debt of \$ 668 m. Only 9 per cent of gas exports were paid in cash in 1996.

The proportion of gas export receipts collected dropped to just 66 per cent in 1996, sparking a dispute with Gazprom and with Turkmenistan's supply intermediary, Itera International Energy (US), and ultimately causing the suspension in exports that occurred in March 1997. Exports to Ukraine resumed only in January 1999, when Turkmenistan, Ukraine and Gazprom finally agreed upon a price of \$ 36 per 1,000 cu meters. Just 40 per cent of the amount was to be settled in cash. Even this proved too much for Ukraine, which accrued considerable arrears during the first months of the new agreement and requested a renewed suspension in May 1999.

(b) Problems with exports

Turkmenistan will eventually need to offer foreign companies equity in the gas sector in order to make any gas pipelines commercially attractive. Without foreign equity participation, financing will prove elusive. Unlike oil, which can easily be sold in the spot market, Turkmen gas exports will require long-term contracts. Turkmenistan has so far failed to secure access to markets able to pay reasonable prices promptly. Moreover, Turkmenistan's distance from these potential markets will result in substantial transit fees and, consequently, lower net export earnings. For instance, Ukraine pays \$ 68 per 1,000 cu meters for the gas on its border with the Russian Federation, of which Turkmenistan receives only \$ 36 in export revenue – the rest being accounted for by transit fees. Turkmenistan's distance from its two largest potential non-CIS export markets, Pakistan and Turkey, combined with the cost of building export pipelines, would similarly result in a gas export price far below the \$ 80 per 1,000 cu meters originally sought by the President.

The value of oil exports increased by 2.5 per cent in 1996,¹⁰⁶ which reflected a low increase in crude oil production (0.7 per cent), and possibly an increase in

¹⁰⁶ Turkmenistan refines all crude oil production and exports only refined products.

domestic demand.¹⁰⁷ Most of the oil exports are to non-CIS markets. Despite the Government's policy of eliminating barter trade in oil, only 35 per cent of oil exports were paid for in cash, although this constituted a significant improvement over 1995, when only nine per cent of oil exports were paid for in cash.

The agricultural sector provides much greater export potential, although poor agricultural policies and bad weather have depressed Turkmenistan's cotton export receipts. The most recent figures indicate that the disastrous cotton crop of 1996 caused an almost 75 per cent fall in cotton exports, from \$ 327 m to \$ 84 m in 1997. Unlike gas exports, Turkmenistan's cotton exports are predominantly paid for in hard currency. In 1997, for instance, Turkmenistan received hard-currency payments for all of its cotton exports and for none of its gas exports. Hoping to capitalize on this, the Government has tried to attract investment into the textiles sector in order to increase the value added of Turkmen cotton exports. Outside the state sector, Turkmenistan has little export potential at the moment, given the exclusion of the small private sector from any export opportunities.

Electricity exports provide an alternative potential cash earner, but have suffered from Kazakhstan's inability to pay and that country's efforts to build its own electricity industry. Turkmenistan also exports electricity to Tajikistan. Similarly, electricity exports to Tajikistan have suffered from payments problems. In the first six months of 1996, Turkmenistan exported electricity to the value of US\$ 54 million, almost 60 per cent more than in the same period of the previous year. However, it received payments for only 43 per cent of this amount. Due to the poor payments record, Turkmenistan has stopped all electricity exports since the summer of 1996. Table 53 offers the most recent import and export data available for 1998.

Other exports amounted to US\$ 77 million in 1996, 11 per cent less than in 1995. The items included in this category are, for the most part, energy-based products (white spirits, fertilizers), cotton-based products (cottonseeds), and carpets. Much of these goods are exported to other CIS countries and the decline partly reflects the changing trade patterns of these countries.

After an initial surge in exports to countries outside the former Soviet Union after independence, Turkmenistan was forced back to its old markets following Gazprom's refusal to allow gas to transit the Russian Federation on the way to Europe. The CIS accounted for 59 per cent of total exports in 1997, down

¹⁰⁷ Turkmenistan does not publish separate volume and price data on oil exports. However, the average world market price for crude oil was 19 per cent higher in 1996 than in 1995, and prices of oil products increased similarly. This would indicate a considerable drop in Turkmenistan's oil export volumes, or contrary to world market developments, a sharp drop in average export prices.

Table 53. Key exports and imports, 1998

(\$ m unless otherwise indicated)	
Exports^a	593.9
Of which:	
Refined oil products	243.5
Gas	70.5
Cotton Fiber	120.0
Imports^b	980.7
Of which:	
Machinery	274.6
Ferrous metals products	98.1
Electrical equipment	83.4
Vehicles	63.7
Trade balance	-386.8
per cent of GDP	-18.3
Memorandum items	
Export value (per cent change, year on year)	-21.0
Import value (per cent change, year on year)	-20.1
Real exchange rate ^b (official rate; per cent change, year on year)	4.8
Real exchange rate ^b (black-market rate; per cent change, year on year)	-29.3
Share in world exports (per cent)	0.01
Exports per head (\$)	125.0

Sources: Reuters, Turkmenistan State Statistical Committee.

^a EIU estimates ^b Year-end

slightly from 68 per cent in 1996. Similarly, 50 per cent of 1997 imports came from the CIS, up from 35 per cent in 1996. Erratic items such as aircraft imports caused imports from the United States of America to rise from just \$ 14 m in 1995 to a peak of \$ 395 m in 1996, before dropping back to \$ 88 m in 1997.

(c) *Imports*

According to official data capital goods have traditionally comprised the largest component of imports. Machinery and equipment accounted for 29 per cent of total import expenditure in 1992-1997, with chemicals, metal structures and raw materials accounting for 22 per cent. Foodstuffs accounted for around 22 per cent of recorded import costs as well, and non-food consumer goods made up 15 per cent over the same period. Since the end of 1998 the Government has severely restricted imports by banning conversion of the manat, except in the

case of priority state-controlled imports. In 1997 just over one-third of import costs were paid in cash, the rest being paid in barter.

(d) *Foreign exchange controls affecting trade*

In the past, foreign companies doing business in Turkmenistan had difficulty converting the national currency into hard currency. Some companies could not even receive manat coverage for a transaction made in Turkmenistan because of a shortage of both local and hard currency. Therefore, most trade transactions in the past were made on a barter basis (usually, payments were made in cotton). Now, the Cabinet of Ministers controls all barter transactions. In 1997, the foreign exchange rate became single and unified at 5,300 manat against the dollar and was stable until July 1998. At that time, a gap began to develop between the official rate and the black market rate, which peaked at 19,000 manat per dollar in April 1999 and has been fluctuating between 14,000 and 15,000 manat in July 2000. This has in essence resulted in an unofficial dual exchange rate that is in place today. All domestic trade is done in manat. Foreign companies may convert the manat into hard currency through their commercial banks. There are certain criteria that are taken into consideration when the SBT provides foreign exchange through its Interbank Currency Exchange to meet the commercial banks' needs in hard currency.

(e) *Conversion and transfer policies*

The Foreign Exchange Regulation Law determines general principles of foreign exchange operations, the authority of state bodies in foreign exchange regulation, and the rights of residents and non-residents regarding foreign exchange ownership and usage. According to this law, non-residents may freely convert the national currency, the manat, to hard currency without limitations or unreasonable delays, provided the amount is needed to pay for transactions made with Turkmen residents. The law also permits non-residents to repatriate capital goods previously imported into Turkmenistan, provided such goods were declared to customs upon entry. In practice, however, due to the shortage of hard currency the Central Bank provides commercial banks with limited amounts of foreign exchange to convert cash and non-cash manat sums. Not all requests for manat convertibility are serviced timely and in full amounts. That results in delays in receiving hard currency incomes and impedes doing business.

A company may apply to a commercial bank to cover the amount of money to be converted with the following documents:

- An application indicating the amount of hard currency to be purchased;

- A trade contract where payment terms envisage either payment for actual shipment of goods or letter of credit (contracts where prepayment terms are envisaged are not considered);
- A customs declaration confirming cargo availability;
- A banking document confirming currency availability in either local or foreign bank accounts;
- The commercial banks licensed to deal in hard currency submit their applications for money convertibility to the Interbank Foreign Exchange (IFE).

A Presidential Decree issued on 3 December 1998 has stopped free currency exchange and approved a temporary provision limiting hard currency exchange operations. The provision provides rules and regulations concerning cash and non-cash hard currency exchange for individuals and legal entities in Turkmenistan. According to the provision, only three categories of Turkmen citizens are eligible to exchange manats into hard currency in cash at the official exchange rate in commercial banks.¹⁰⁸

The Central Bank allows commercial banks to sell non-cash foreign exchange at the official exchange rate to legal entities that are resident in Turkmenistan only for the following purposes:

- To pay off foreign credits extended to Turkmenistan under the Turkmen government sovereign guarantee;
- To repatriate foreign investments and profits providing an investment projects registered with the State Foreign Investment Agency (SAFI) and the Chief State Tax Inspectorate (CSTI);
- To purchase medicines and medical items that are listed in a list approved by the Cabinet of Ministers;
- To purchase raw materials and other products needed for production of goods and services;

¹⁰⁸ These categories are: (1) sick people who need clinical treatment outside of Turkmenistan providing a person is enrolled in a list made by the expert commission of the Ministry of Healthcare and Medical Industry; (2) students who study abroad providing the Education Ministry confirms their enrollment; and (3) state employees who go abroad for a business trip providing a letter from an appropriate ministry or state organization approved by an appropriate Deputy Chairman of the Cabinet of Ministers is provided. For the rest of the population, the grey market is the only option for hard currency.

- To pay off debts on foreign credits for the promotion of private goods and services production in Turkmenistan and for the purchase of raw materials, products and spare parts needed for projects that are implemented under these credit lines; and
- To purchase consumer goods and food products (except for spirits, alcohol and tobacco) by special-purpose shops provided an obligatory contract on daily sales proceeds transfer is signed between these shops and commercial banks.

4. Trade regulations, customs and standards

(a) Trade barriers, including tariff and non-tariff barriers

Turkmenistan does not officially apply tariffs to imported goods, with the exception of import by individuals. However, in effect the current excise tax regime sets up excise taxes for certain imported goods but not for their corresponding domestic ones and the excise tax rates for imported goods are higher than those applied to the same domestic products.

Turkmenistan maintains a significant number of non-tariff barriers to trade. Among them is the trade contract and investment project registration requirement. Foreign companies must register with the State Commodity and Raw Materials Exchange (SCRME) and with the State Agency for Investment (SAFI), the main bodies regulating foreign trade and investment. In addition, there are other agencies that also require registration of contracts and projects for various purposes including Khakimliks (mayor offices), the State Tax Inspectorate, and some sectoral ministries.

The State Commodity and Raw Materials Exchange of Turkmenistan was founded by Turkmenistan President Decree dated August 1994. It is considered to be an important economic establishment, authorized to function as a head body, regulating export-import transactions. Compared with other exchanges, Turkmenistan State Commodity and Raw Materials Exchange scope of work is extremely wide. Besides its traditional functions of acting as an intermediary, its main objectives are:

- To create equal terms and conditions for its participants, both international businessmen and Turkmenistan entrepreneurs;
- To increase and speed up turnover;

- To saturate the domestic market with required consumables and technical production and equipment intended to modernize the country's economy;
- To supervise the country's natural and mineral resources to be effectively disposed of, and;
- To comply with prices stated per goods, taking their real cost price into consideration.

In accordance with Turkmenistan's Law on Commodity and Raw Material Exchanges, enterprises and organizations of all property forms, citizens of Turkmenistan and other states may act as auction participants by holding a broker or making a contract on broker service to be rendered by the brokerage companies.

SCRME often creates difficulties for both local and foreign traders. A special Presidential Decree has authorized the SCRME to regulate prices for goods produced in Turkmenistan and exported from the country, and to control implementation of export contracts. The SCRME also sets up prices at which local businesses are allowed to purchase goods from foreign markets and requires them to sell products at prices (not more not less) fixed in contracts registered with this body. Otherwise, businesses can be fined. Such requirements often lead to the import of products and services of low quality. The SCRME also requires goods to be received in the country before they can be paid for.

Entities with foreign involvement are required to file documents for registration as legal entities in addition to those set forth for entities without foreign participation. Also, projects with foreign company involvement must obtain authorization from SAFI while projects without foreign participation are not subject to this authorization process. Registration with SAFI is normally a time-consuming process that creates delays in getting goods and services to consumers.

The commercial tax structure which includes the Law on Profit Tax, the Law on Value Added Tax (VAT), and the Law on Wage Fund Excess Levy, puts foreign investors at a disadvantage relative to domestic investors by making various exemptions applicable to domestic businesses and taxing foreign investors as to certain sources of income. The Law on VAT provides VAT exemptions to a number of domestic companies producing a wide variety of products. On the other hand, such exemptions are not provided for similar imported products.¹⁰⁹ Article 37 of the Law on Hydrocarbon Resources requires contractors in the oil

¹⁰⁹ Beginning 1 July 1998, state and non-state enterprises and agricultural entities are exempted from value added tax payment on part of the profit received from the export of goods and services.

and gas sector to provide preferences to equipment, materials, and finished products made in Turkmenistan if they are competitive in terms of quality, price, operating parameters, and delivery conditions. Such a requirement may create an impediment to foreign investors and traders.

(b) Customs regulations

Foreign companies doing business in Turkmenistan consider the Turkmen customs clearance process very complicated, in terms of paper work, and lengthy (sometimes up to 2 months). Requests for bribes have been a typical occurrence in day-to-day customs operations.

To pass through customs, an importer of goods must submit the following documents:

- A trade contract registered with the SCRME. The contract should contain information about quantities and costs in hard currency that will be the basis for the customs valuation;
- A bill of lading with similar information on qualities and costs;
- A customs cargo declaration form that can be obtained in the Ashgabat-Expertisa firm of the Chamber of Commerce of Turkmenistan;
- A conformance certificate confirming the quality of delivered goods. The certificate can be obtained from the State Standards Inspectorate;
- A certificate of origin;
- A Central Bank document confirming money transfer for purchasing goods or an irrevocable Letter of Credit.

The customs cargo declaration and bill of lading are only accepted in English or Russian. Other documents can be in Russian. The Chamber of Commerce must certify translated copies. The fee for certification ranges from USD 1 to 2 per page. Faxes and copies are not accepted as official documents by the customs authority.

During the customs clearance process, Customs charges a service fee of 0.2 per cent of the contract cost and 20 per cent of the value added tax assessed on the customs service fee sum.

5. Tariff rates, taxes and surcharges

In 1996, the Government introduced customs excises for four categories of goods including alcohol, vehicles, tobacco products, and jewelry made of precious and semi-precious stones and medals. Gradually, the list of goods subject to customs excises has grown to more than one hundred categories of goods. The Government officially claims that there are no customs tariffs charged for export/import of goods by juridical entities. However, Turkmen Customs does, in fact, charge customs excises for export/import transactions in accordance with presidential decrees regulating export/import operations. A presidential decree of 18 August 1999 approved the updated list of goods subject to excise taxes. This list came into effect on 1 October 1999. The following is a partial list of goods imported into Turkmenistan that are subject to customs excises (table 54):

On 19 March 1999, a presidential decree introduced a 5 per cent customs duty for goods imported into Turkmenistan by individuals. The duty is charged against values determined by Turkmen Customs on the basis of world and domestic price information provided quarterly by the State Institute for Statistics and Prognosis. Duties are not charged on goods that have been exported previously from Turkmenistan, declared at Customs and re-imported into the country. Customs also does not charge duty on goods imported as part of passenger personal luggage though the total value of goods included in the passenger personal luggage should not exceed an amount determined by Customs. Food items except for alcohol and tobacco products and medical items, school appliances and children's goods are not subject to the customs duties.

Turkmen Customs levies excises on a limited number of exported goods (table 55).

When considering importing or exporting goods from Turkmenistan, the following should be noted:

- The importation of alcohol into Turkmenistan is licensed by the Ministry of Trade and Foreign Economic Relations;
- Goods and products imported in accordance with intergovernmental agreements, governmental decrees and orders, and for implementation of projects and contracts, including those involving foreign investment, state loans, humanitarian assistance and/or raw materials that are reworked or to which value is added in Turkmenistan, are exempt from excises;

Table 54. Import Excise in Turkmenistan by Category (Partial List)*

	Product Category	Excise Rate per cent
(1)	Eggs	10
(2)	Natural honey	30
(3)	Fresh or cooled potatoes	10
(4)	Tomatoes, peppers, eggplants, cabbage, cucumbers, onion, garlic	100
(5)	Carrot, turnip, red beet	50
(6)	Legumes	10
(7)	Other vegetables including fresh or cooled, non-cooked or cooked	
(8)	preserved for short time life, and dried	10
(8)	Fruit and nuts	20
(9)	Lemons	50
(10)	Grapes	100
(11)	Watermelons, melons, gourds	100
(12)	Coffee	20
(13)	Wheat	50
(14)	Wheat flour	50
(15)	Other types of wheat except for	10
(16)	Cereals	10
(17)	Potato flour, cereal, flakes	10
(18)	Oil-bearing seeds and fruits	10
(19)	Vegetable oils	10
(20)	Confectionery	10
(21)	Chewing gum	USD 0.01 per one piece
(22)	Cocoa and derivatives	10
(23)	Pasta	50
(24)	Ready made products of vegetables fruit, and nuts	30
(25)	Ozocerite	20
(26)	Oil coke	30
(27)	Bitumen	30
(28)	Technical iodine (A type)	30
(29)	Tetrabromodifeninolpropan	30
(30)	Ferro bromide	20
(31)	Technical carbon K-354	30
(32)	Oxygen	20
(33)	Potassium iodide	30
(34)	Technical sulfur acid	20

Table 54. (continued)

(35)	Technical sulfur acid	20
(36)	Carbon dioxide	20
(37)	Technical magnesium chloride	30
(38)	Sodium sulphate (A and B type)	30
(39)	Aluminum sulphate	20
(40)	Glauber's salt	50
(41)	Tan extracts and dyeing tannins	10
(42)	Essential oils, perfume, cosmetics, and other body care products	10
(43)	Soap bars and other washing means	
(44)	"Belizna" bleach	30
(45)	Technical salt	30
(46)	Photo and film products	10
(47)	Plastic products	20
(48)	Rubber items	20
(49)	Leather except for fur and sheep and lamb skin	10
(50)	Leather goods: saddles and harness, and travelling items	30
(51)	Natural and artificial fur and fur items except for astrakhan fur coats	20
(52)	Astrakhan fur coats	100
(53)	Silkworm cocoons	50

Source: Ministry of Trade and Foreign Economic Relations.

* The Government has listed 155 items eligible for excise tax.

Table 55. Export Excise in Turkmenistan by Product Category

Product Category	Excise amount (US\$)
(1) Pure wool and partial wool yarn	100 per ton
(2) Cattle leather:	
– leather from cows, camels, bulls, etc.	100 per ton
– leather from sheep and goats	0.50 per piece
– non-standard leather	50 per ton
(3) Ammonia saltpeter	100 per ton
(4) Superphosphate *	100 per ton
(5) Ammonium phosphate *	100 per ton
(6) Ammonium sulphate *	100 per ton
(7) Turkmen sheep-dogs (license required from the Nature Protection Ministry)	300 per dog

Source: Ministry of Trade and Foreign Economic Relations.

Note: * All marked products are exempt from excises when sold for hard currency through the State Commodity and Raw Exchange.

- Excises are paid in the national currency, the manat, at a foreign exchange rate determined by the Central Bank of Turkmenistan on the date of contract registration with the State Commodity and Raw Materials Exchange.

According to customs' instruction of 10 February 1997, excises on imports are computed on the basis of one of the following:

- The physical volume or weight of goods (in which case the excise rate is set in US dollars); or
- Trade contract value (in which case the rate is expressed as a percentage), provided the resulting tax equals or exceeds the tax customs would collect under (a).

6. Obstacles to WTO membership

The main obstacles to Turkmenistan's admission to WTO may be organized into geographic, economic and political categories. While some of the obstacles are structural in nature and thus difficult to remove without adequate outside help, other obstacles are merely policy-oriented and could easily be altered if the government of Turkmenistan exercises its political will to pave the way for the republic's eventual admission to WTO.

(a) Geographic obstacles

As a landlocked nation Turkmenistan's economic progress and commercial interaction with the outside world are intimately tied to its relations with the neighboring countries. Lack of access to international waters will continue to hamper Turkmenistan's incorporation into the global commercial structures. Turkmenistan has so far been heavily dependent on the Russian Federation for access to global markets. Unfortunately, the Russian Federation has been less than forthcoming in granting Turkmenistan free and unlimited access to market its products. Turkmenistan's second logical access to the world markets is through its southern neighbour, the Islamic Republic of Iran. But the United States has consistently lobbied against the Islamic Republic of Iran as an alternative transit route for Turkmenistan and other countries of the region. Although with the opening of the Sarakhs-Tajan railroad in 1996, some of Turkmenistan's commercial needs are being addressed, attempts to use or to build export pipelines through the Islamic Republic of Iran have been blocked by the United States. Finally, Turkmenistan's relations with Azerbaijan and Uzbekistan have not improved significantly over the last few years, making it difficult to use either country as

a viable transit route. It is precisely this geographic predicament that makes Turkmenistan's bid for greater commercial interaction with rest of the world a difficult one, particularly in light of the that neither the Russian Federation, nor Azerbaijan or Uzbekistan are members of the WTO.

(b) *Economic obstacles*

Three economic obstacles will continue to weaken the prospect of Turkmenistan's admission to the WTO. First, a significant portion of Turkmenistan's trade consists of barter trade. The general lack of hard currency and the inability of trading partners to pay cash for Turkmen products make it difficult to improve Turkmenistan's commercial status as a viable candidate for admission to the WTO. This, combined with its geographic predicament, has prevented Turkmenistan from diversifying its trading partners so as to receive cash for its products. Turkmenistan's commercial interaction has remained predominantly within the old Soviet trade structure. Unfortunately, the progress to diversify its trading partners will be primarily determined by the willingness of the Russian Federation to loosen its economic grip on Turkmenistan.

Second, Turkmenistan's monetary policy will continue to be a major obstacle to the overall incorporation of its economy into the global financial structures. The adoption of a dual exchange rate has weakened Turkmenistan's competitiveness vis-à-vis its trading partners. Table 56 provides a clear picture of the impact. The table demonstrates the unweighted real exchange rate of manat vis-à-vis the currencies of the trading partners and a sample of semi-industrialized countries.

The real exchange rate appreciated significantly against the currencies of the all partners during the 1995-1999 period. Of particular significance is the deterioration of Turkmenistan's competitiveness in the markets of its actual and potential trading partners, including Czech Republic, Poland, Turkey and Ukraine. Furthermore, given the appreciation of the Turkmen manat against all other currencies in the sample, Turkmen products face a steep competition in the Russian, Ukrainian, and Eastern European markets from competitor countries.

Finally, given the structure of the Turkmen economy, which is largely dependent upon gas and cotton, the country will continue to face a rather limited trade capacity. The hard currency shortages and barter trade have severely hampered the government's ability to diversify the economy. This trend will most likely continue in the near future, unless Turkmenistan is given access to markets that provide hard currency for its export trade.

Table 56. Real Exchange Rate Index, 1995-1999¹

	1995	1996	1997	1998	1999	
	Year	Q4	Q4	Q3	Q1	Q4
Turkmenistan/Armenia	100	193	231	262	316	347
Turkmenistan/Azerbaijan	100	172	200	216	290	361
Turkmenistan/Belarus	100	193	278	336	565	475
Turkmenistan/Estonia	100	184	236	246	290	342
Turkmenistan/Georgia	100	172	207	239	387	380
Turkmenistan/Kazakhstan	100	177	212	230	307	475
Turkmenistan/Kyrgyzstan	100	217	256	302	481	584
Turkmenistan/Lithuania	100	173	200	212	255	284
Turkmenistan/Latvia	100	184	227	246	285	311
Turkmenistan/Moldova	100	174	199	221	387	441
Turkmenistan/Russian Federation	100	193	235	326	576	606
Turkmenistan/Tajikistan	100	243	274	322	440	544
Turkmenistan/Ukraine	100	172	201	264	406	528
Turkmenistan/Uzbekistan	100	213	265	326	362	431
Turkmenistan/Egypt	100	182	221	233	283	302
Turkmenistan/India	100	193	251	263	323	346
Turkmenistan/Pakistan	100	217	278	308	368	n.a.
Turkmenistan/Syria	100	182	225	252	304	n.a.
Turkmenistan/Czech Republic	100	183	267	240	331	368
Turkmenistan/Poland	100	191	251	262	334	386
Turkmenistan/Turkey	100	198	239	241	300	323
Memorandum Item:						
Average all countries	100	191	236	264	361	373
Average all BRO countries	100	190	230	268	382	436

Source: International Monetary Fund, "The Burden of Current Agricultural Policies", Working Paper, June 2000, WP/00/98.

¹ An increase to the index indicates an appreciation of the manat vis-à-vis the currency of Turkmenistan's trading partner.

(c) *Political obstacles*

From a political point of view, Turkmenistan has been faced with serious obstacles. First, in an attempt to keep Turkmenistan within its sphere of influence, the Russian Federation has consistently forced Turkmenistan to abide by terms and conditions unfavorable to its export trade. The Russian Federation has a virtual monopoly over gas export pipelines and to a large extent controls the Turkmen gas export destinations. Two aspects of Russian policy have been particularly detrimental to the Turkmen economy. First, due to lack of alternative

pipeline access, Turkmenistan has been forced to sell its gas at way below global market prices. Second, Russian pressure has so far prevented Turkmenistan to export to European markets directly and in large quantities so as to earn greater amounts of hard currency.

The second obstacle has to do with the nature of political rule in Turkmenistan. President Saparmurat Niyazov has so far resisted meaningful structural reforms and continues to pursue a policy of state-led economic system. In the absence of any significant structural reform, the state will continue to retain tight control over the key sectors of the economy and over access to imports, credit, and foreign currency. Furthermore, to prevent further deterioration of living standards, Mr. Niyazov has continued subsidizing virtually all daily necessities from gas to electricity to bread at a high cost and at the expense of meaningful domestic investment in the economy. An inevitable by-product of Mr. Niyazov's policy of control has been a very slow growth of independent entrepreneurship and commercial activities.

7. Recommendations

Given the obstacles mentioned above facing Turkmenistan today, the following recommendations may help pave the way for its eventual admission to the WTO. Although in the short-term these recommendations may prove to be difficult to implement, in the long-term they would significantly improve Turkmenistan's prospects toward integration into the multilateral trading system. Therefore, it will be a while before Turkmenistan can submit its application to the TWO for consideration.

- Turkmenistan should be allowed to maximize its export potential through the construction or use of gas pipelines that do not cross territories of the Russian Federation. This will require a revision of United States current policy towards both Afghanistan and the Islamic Republic of Iran. Such a revision will allow Turkmenistan to increase the quantity of its exports and offer an opportunity to tap into European and other markets that would be willing to pay in hard currency. Turkmenistan will also be able to sell its gas at rates that are commensurate to world market prices.
- Efforts should be made to expedite admission of the Russian Federation to WTO. This will in turn place international legal restrictions on its trade policy vis-à-vis other former Soviet republics including Turkmenistan. Its admission should therefore be seen as a significant prerequisite for the eventual admission of Turkmenistan.

- Turkmenistan should diversify its economy so as to improve its comparative advantage within the global market economy. The current export structure of the country is based primarily on gas and cotton exports. Given the Russian control over the quantity and prices of gas, Turkmenistan will have to make significant domestic investment to strengthen its manufacturing sector and secondary oil and gas processing facilities.
- Despite its political cost, Turkmenistan should bring about a systematic price liberalization and reduce its widespread and largely unsustainable subsidies program. This will free up much needed capital for investment in the country's economic infrastructure.
- Turkmenistan should resolve its disputes with Azerbaijan over Caspian Sea resources so as to expedite offshore oil production and to capitalize on greater access to world markets through Azerbaijan.
- Turkmenistan should pursue a regulatory reform of its external sector. The current trade policies have proven to be counterproductive and have had a definite negative impact on foreign commercial interest in the Turkmen economy. These reforms should be geared toward offering greater incentives to foreign trading partners and by reducing bureaucratic requirements for commercial contracts.

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H. Uzbekistan¹¹⁰

1. Introduction

In an era of globalization, the economic development of all regions in the world are affected by developments and problems associated with the global economy. International organizations are a manifestation of economic integration of states and multilateral diplomacy, and as such play an important role in this process.

Along with such internationally recognized organizations such as the United Nations Organization (UN), World Bank, International Monetary Fund (IMF) and European Bank for Reconstruction and Development (EBRD), the World Trade Organization (WTO), established on the basis of the General Agreement on Tariffs and Trade (GATT), plays a significant role in the creation of a more favourable trading environment for multilateral exchange of goods and services.

The main goal of the WTO is to foster economic cooperation among states with the objective to increase the standard of living through ensuring full employment, raising production and exchange of goods and services, promoting efficient use of scarce resources, such as raw materials, so as to achieve long term sustainable development, with due regard to protecting and saving the environment.

For this purpose, the WTO strives to forge agreement among states in the area of trade by providing a rules-based multilateral trading environment and technical assistance to developing countries.

The Government of Uzbekistan attaches great importance to the issues of accession to the WTO and strives to become a full member. As such, the country is tackling a range of complex measures related to accession to the WTO.

This paper was prepared for the Subregional Workshop on Accession to WTO – Economies in Transition, which was organized by the United Nations ESCAP in cooperation with the Ministry of Foreign Economic Relations of the Government of Uzbekistan in Tashkent from 25 to 27 July 2001.

The principal objective of this paper is to review the current economic situation in Uzbekistan, its trade policy, and measures undertaken by the Government of Uzbekistan as part of the process of accession to the World Trade Organization.

¹¹⁰ Based on a paper prepared by Mr. Farrukh M. Rizaev, Head, Legal Department, Ministry of Foreign Economic Relations, Uzbekistan.

In particular, this paper has attempted to analyze the national legislation of Uzbekistan with regard to its conformity with norms and provisions of the WTO Agreements, analyze the foreign trade regime of the country, and provide some ideas related to new issues discussed within the World Trade Organization.

Section 2 will review the main aspects of trade policy implemented by Uzbekistan over the last 10 years. Section 3 will provide a more detailed analysis of the foreign trade regime of the country, while section 4 pays particular attention to the issue of intellectual property rights. Section 5 provides an assessment of the progress made by Uzbekistan in its access to WTO. Section 6 gives a brief analysis of the benefits of WTO membership for Uzbekistan. Section 7 summarizes the main conclusions and provides some recommendations for future action.

2. Review of trade policy implemented in Uzbekistan over the last 10 years

Since independence (31 August 1991) the Government of Uzbekistan has steadily followed its main goal for the economy – gradual restructuring of the centrally-planned economy, inherited from the former Soviet Union, into a socially-oriented market economy. Meanwhile, major attention is paid to creating and improving the present industrial base of the economy.

The approach of Uzbekistan to the implementation of reforms is based on market economic principles as experienced in the developed world with due account of the traditions and mentality of the Uzbek nation.

The Country is consistently pursuing an Open Door Policy in the foreign economic sector based on the principles identified by President I.A. Karimov, which serve to promote:

1. The development of trade and economic relations regardless of ideology;
2. Equal and mutually beneficial cooperation, both on a bilateral and on a multilateral basis;
3. The priority of norms of international law over national ones, including the recognition of GATT/WTO principles and rules, in the context of step-by-step liberalization of the foreign trade regime during the process of accession to the WTO;
4. Reasonable balance between competition and cooperation among countries; application of the Most Favoured Nation (MFN) Treatment principle to countries and foreign investors with the objective to attract the most up-to-date technologies.

In accordance with the policy of gradual reforms in the area of foreign economic activities, the following results and achievements during the years of independence can be identified:

1. De-monopolization and decentralization of foreign trade;
2. Formation of a legislative basis for foreign economic activities which is in conformity with international norms and standards;
3. Step-by-step transition from administrative methods of regulation, including the use of quotas and licenses, to the economically-justified and accepted methods of tariff regulation;
4. Full membership of more than 30 authoritative international economic and financial organizations, such as Asian Development Bank (ADB), European Bank for Reconstruction and Development (EBRD), International Cotton Advisory Committee (ICAC), International Monetary Fund (IMF), World Bank, World Customs Organization (WCO) and others, as well as acquired observer status in the WTO;
5. Application of principles of free trade on a mutual basis with 11 countries in the CIS and of the Most-Favoured-Nation treatment to 38 countries, in accordance with international treaties; in addition, there are 39 agreements on “Encouragement and Mutual Protection of Investment”;
6. Diversification and extension of foreign trade partners away from the CIS. Trade and economic relations have been established with more than 140 countries worldwide. Uzbekistan currently exports to 80 countries;
7. Increase in the volume of foreign trade turnover by more than 12.5 times over the period 1991-2000. At the same time, it should be emphasized that these parameters were achieved despite a considerable decline in prices on the world markets of key export raw materials of Uzbekistan;
8. Stable growth of the physical volume of exports through consistent diversification of its structure. As of 2000, the share of products with high value added has reached 36 per cent of the total exports, compared to 25 per cent in 1998. At the same time, by the year 2000, the production of about 900 new industrial products had started;

9. Maintenance of a positive foreign trade balance over the last four years, amounting to \$ 317.3 million in 2000. This has boosted the growth of gold and currency reserves of the country;
10. Creation of favourable investment climate that allowed to attract more than \$ 12 billion of foreign direct investment (FDI) to the country. About 3,500 entities with foreign capital have been established so far;
11. Development of a foreign trade infrastructure: Uzbek producers established more than 200 trade houses, representative offices and joint ventures abroad;
12. Implementation of targeted measures for the development of a system of alternative transport corridors for extension of mutually beneficial trade and economic relations with foreign countries. In particular, in 2000 more than 50 per cent of export cargo of the country was transported through new routes.

With respect to the accession of Uzbekistan to the WTO, it should be noted that under this process, adaptation of the national legislation in conformity with the provisions of the WTO Agreements will be necessary, apart from other necessary measures.

Uzbekistan has implemented the above-mentioned measures on a systematic and gradual basis. In fact, the legal framework conforming with the basic provisions of international agreements had been established in Uzbekistan already before the submission of the Memorandum on Foreign Trade Regime to the Secretariat of the WTO (in 1998).

3. Foreign trade regime of Uzbekistan

(a) Import regime

(i) Import customs tariffs

The Law on the Customs Tariff, passed by Oliy Majlis (Uzbek Parliament) on 29 August 1997 and enacted on 1 January 1998, specifies the following rates of customs duties:

- (a) ad valorem rate, calculated as a percentage of the customs value of goods;

- (b) specific rates, calculated at a fixed amount per unit of taxable goods;
- (c) combined rates that combine the two mentioned types of rates.

This law also provides that the rates of import customs duties applied to goods originating from countries to which the Republic of Uzbekistan applies MFN shall be established by special legislation.

With the aim to further liberalize foreign economic activities on the basis of perfection and priority application of tariff regulations, Resolution No. 66 dated 2 February 2001 of the Cabinet of Ministers of the Republic of Uzbekistan on Measures for the Improvement of Foreign Trade Activity was adopted and its provisions came into force on 1 March 2001. The resolution reduced applicable import custom duty rates from 12 to 5 discrete levels ranging from 0 to 30 per cent (except second-hand automobiles) on each category of the Harmonized System (HS)¹¹¹ (table 57).

With the aim to reduce prices in the domestic consumer market and facilitate the expansion of the export potential of enterprises in the country, the list of products with zero rates of import duties was considerably extended. Thus, the number of product HS headings taxed at zero rate rose from 73 to 497. Duty rate levels of 3, 5, 15, 40, 45, 50 and 60 per cent were deleted from customs tariff, and the number of HS headings liable to 30 per cent duty was reduced from 302 to 241.

In accordance with Resolution No. 137 of the Cabinet of Ministers dated 31 March 1998 on Additional Measures for Liberalisation of Foreign Trade Activities in the Republic of Uzbekistan, the aforementioned rates are the applicable MFN rates. The tariff rates applied in respect of those countries which do not enjoy MFN treatment are the double the MFN rates.

Imported goods originating from countries, which are participants in the CIS Free Trade Area Agreement, signed on 15 April 1994, are not subject to import customs duties. As a means of implementation of the provisions of the abovementioned Agreement, the list of member-states of the Free Trade Area Agreement was registered with the Ministry of Justice on 8 April 1998 by No. 429 (table 58).

¹¹¹ Harmonized System is an internationally accepted term to denote description and coding of commodities. Namely, Article 1 of the International Convention on the Harmonized Commodity and Coding System, elaborated under the auspices of the Customs Cooperation Council and concluded 14 June 1983, defines this System as follows: "The Harmonized Commodity and Coding System", hereinafter referred to as 'The Harmonized System', signifies the Nomenclature comprising headings, subheadings and digital codes related to them, notes to sections, chapters and subheadings and also General Rules annexed to this Convention for the interpretation of the Harmonized System.

Table 57. Rates of import customs duties*
(Annex 1 to Resolution No. 66 of the Cabinet of Ministers dated
2 February 2001)

Chapter	Description	CN Code	Rates of Ad Valorem Customs Duty
	To all imported commodities except:		0
06	LIVE TREES AND OTHER PLANTS; BULBS, ROOTS AND THE LIKE; CUT FLOWERS AND ORNAMENTAL FOLIAGE	0601-0602	30
	Cut flowers and flower buds	0603-0604	20
07	Tomatoes; Onions, shallots, garlic, leeks; Cabbages, cauliflowers, kohlrabi, kale; Lettuce and chicory; Carrots, turnips, salad beetroot, salsify, celeriac, radishes; Cucumbers and gherkins; Leguminous vegetables; Other vegetables;	070200-0713	30
08	EDIBLE FRUIT AND NUTS	0801-0814	30
09	Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee in any proportion; Mat�e.	0901, 0903	10
13	Vegetable saps and extracts	1302	20
17	Sugar confectionery (including white chocolate), not containing cocoa; Including Chewing gum	1704	30
18	COCOA AND COCA PRODUCTS	1801-1806	10
19	Preparations of cereals, flour, starch or milk; pastry cooks' products; Pasta; Tapioca; Bread, pastry	190190, 1902-1905	20
20	Preparations: of vegetables, fruit, nuts or other parts of plants:		
	Cucumbers and gherkins, onions	200110000, 200120000	30
	Other vegetables, fruits	2001 90	10
	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid; mushrooms and truffles; other vegetables and nuts	2002-2008	30
	Fruit juices (grapefruit and others)	200911-200940	20
	Fruit juices	200950-200980	30
	Mixtures of juices	2009 90	10

Table 57. (continued)

21	Extracts, essences and concentrates of coffee	2101	10
	Soya sauce; Tomato ketchup and other tomato sauces; Mustard flour and meal and prepared mustard; Soups and broths and preparations therefor; Flavoured ice and ice sherbets	2103-2105 00	30
	Food preparations not elsewhere specified or included	2106	10
22	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter not flavoured; ice and snow	2201	30, but not less than 0.15 US\$ for 1 liter
	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading No. 20.09	2202	30, but not less than 0.15 US\$ for 1 liter
	Beer made from malt.	2203 00	30, but not less than 0.3 US\$ for 1 liter
	Wine of fresh grapes, including fortified wines; grape must other than that of heading No. 2009.	2204	30, but not less than 0.5 US\$ for 1 liter
	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances.	2205	30, but not less than 0.5 US\$ for 1 liter
	Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages not elsewhere specified or included	2206 00	30, but not less than 0.5 US\$ for 1 liter
	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent vol or higher; ethyl alcohol and other spirits, denatured, of any strength	2207	30, but not less than 1.0 US\$ for 1 liter
	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent vol; spirits, liqueurs and other spirituous beverages; compound alcoholic preparations of a kind used for the manufacture of beverages	2208	30, but not less than 1.0 US\$ for 1 liter
	Vinegar and substitutes for vinegar obtained from acetic acid	2209 00	10
23	Preparations of a kind used in animal feeding.	2309	30

Table 57. (continued)

24	Unprocessed tobacco; tobacco refuse.	2401	10
	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes	2402	30, but not less than
	Other manufactured tobacco and manufactured tobacco substitutes; "homogenized" or "reconstituted" tobacco; tobacco extracts and essences	2403	3.0 US\$ for 1000 pieces.
25	Salt (including table salt and denatured salt) and pure sodium chloride	2501	20
	Unroasted iron pyrites; Sulphur; Ground	2502-2519	10
	Gypsum, anhydrite; plasters	2520	30
	Limestone flux	2521	10
	Quicklime, slaked lime and hydraulic lime, other than calcium oxide and hydroxide of heading No. 2825; Portland cement, aluminous cement, slag cement, supersulphate cement and similar hydraulic cements, whether or not coloured or in the form of clinkers	2522-2523 (except 252330000)	30
	Asbestos, Mica, Steatite	2524-2530	10
27	Coke and semi-coke of coal	2704	10
	Petroleum oils and oils obtained from bituminous minerals, other than crude:		
	Oils-with an octane number 98 or more -diesel oil	271000250-271000290, 271000370, 271000390, 271000590	10
		271000320-271000360	30
		2710 00 690	20
28	INORGANIC CHEMICALS; ORGANIC OR INORGANIC COMPOUNDS OF PRECIOUS METALS	2801-2851	10
29	ORGANIC CHEMICALS	2901-2935 (except 291532000), 2938-2940, 2942	10
31	FERTILISERS	3101-3105	10
32	Dyeing extracts	3201-3207	10
	Paints and varnishes (including enamels and lacquers) based on synthetic polymers or chemically modified natural polymers, dispersed or dissolved in a non-aqueous medium or dissolved in an aqueous medium	3208, 3209 (except 320810100, 320890100, 320890910, 320890990, 320990000)	20
		3210-3215	10

Table 57. (continued)

33	Essential oils and resinoids;	3301-3302	10
	Perfumes and toilet waters	3303 00	30
	Beauty or make-up preparations and preparations for the care of the skin (other than medicaments)	3304	30
	Preparations for use on the hair; Preparations for oral or dental hygiene; Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations	3305-3307	20
34	Soap, organic surface-active products	3401 (except	30
	Organic surface-active agents	340119000)	
	Artificial waxes and prepared waxes;	3402, 3406	10
	Polishes and creams for footwear, scouring preparations	3404-3405	30
35	Casein, caseinates and other casein derivatives; casein glues	3501-3507	10
36	EXPLOSIVES	3602-3605	10
37	Photographic plates and film in the flat; film in rolls; Photographic paper, paper board and textiles; Chemical preparations for photographic uses (other than vanishes, glues, adhesives and similar preparations)	3701-3705, 3707 (except 370110, 370210)	20
38	MISCELLANEOUS CHEMICAL PRODUCTS	3801-3824	10
39	Polymers, plastics and articles thereof	3917-3926	10
40	RUBBER AND ARTICLES THEREOF	4008-4016	10
42	ARTICLES OF LEATHER; SADDLERY AND HARNESS; TRAVEL GOODS, HANDBAGS AND SIMILAR CONTAINERS; ARTICLES OF ANIMAL GUT (OTHER THAN SILK-WORM GUT)	420100 000-4206	20
43	Tanned or dressed furskins; Articles of apparel, clothing accessories and other articles of furskin Artificial fur and articles thereof	4302-4303 4304	20 10
44	WOOD AND ARTICLES OF WOOD	4407-4421	10
46	MANUFACTURES OF STRAW, OF ESPARTO OR OF OTHER PLATING MATERIALS	4601-4602	20

Table 57. (continued)

48	Uncoated kraft paper and paperboard, in rolls or sheets	4804	10
	Other uncoated paper and paperboard; Composite paper and paperboard; Paper and paperboard corrugated	4805, 4807, 4808	20
	Paper and paperboard coated	4810-4815	10
	Carton, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres; box files, letter trays, and similar articles, of paper or paperboard of a kind used in offices, shops or the like	4819	20
	Registers, bobbins, spools	4820-4823	10
49	Printed books, brochures, leaflets and similar printed matter	490-4902, 4906-4907, 4909, 4910, 491191	10
	Trade advertising material, commercial catalogues and the like	4911 10 000	30
50	SILK	5004-5007	10
51	Yarn and woven fabric	5106-5113	10
52***	Cotton, not combed	5201, 5203 00 000	30
	Cotton waste (including yarn waste and garnetted stock)	5202	20
	Cotton sewing thread and yarn	5204-5207	30
	Woven fabrics of cotton	5208-5212	20
	-jacquard fabrics	520949100, 520949900, 521149110, 521149190	10
53***	OTHER VEGETABLE TEXTILE FIBRES; PAPER YARN AND WOVEN FABRICS OF PAPER YARN	5301-5311	10
54***	MAN-MADE FILAMENTS	5401-5408	10
55***	Sewing thread of man-made staple fibres	5508-5512	10
	Woven fabrics of synthetic and artificial staple fibres	5513-5516	20
56***	Wadding of textile materials and articles thereof; Felt	5601-5602	20
	-Of other textile materials	560229900	10
	Nonwovens	5603 00	20
	-Weighing from 70 g/m ² to more than 150 g/m ²	560313, 560314	10
	Rubber thread and cord, textile covered; textile yarn, and strip and the like	5604	20
	-High tenacity yarn of polyester	560420000	10

Table 57. (continued)

	Metallized yarn; Gimped yarn and strip; Articles of yarn, strip, twine, cordage, rope or cables	560500 000, 5606 00-5609 00 000	20
57***	CARPETS AND OTHER TEXTILE FLOOR COVERING	5701-570500	30
58***	Woven pile fabrics and chenille fabrics; Terry toweling and similar woven terry fabrics; tufted textile fabrics; Gauze; Tullies and other net fabrics; Hand-woven tapestries; Narrow woven fabrics and others.	5801-5811 00 000	20
	-Warp pile fabrics, cut	580125000, 580135000	10
59***	Textile fabrics coated with gum or amylaceous substances; Textile products and articles for technical uses	5901-5909 00, 5911	20
	Transmission or conveyor belts or belting; Bolting cloth, whether or not made up	5910, 591120000	10
60***	Pile fabrics, knitted or crocheted	6001-6002	30
61***	ARTICLES OF APPAREL AND CLOTHING ACCESSORIES, KNITTED OR CROCHETED	6101-6110, 6112-6117	30
62***	ARTICLES OF APPAREL AND CLOTHING ACCESSORIES, KNITTED OR CROCHETED	6201-6208, 6210-6217	30
63***	Blankets and travelling rugs; Bed linen, table linen, toilet linen and kitchen linen; Sets consisting of woven fabric and yarn, whether or not with accessories; Worn clothing and other worn articles; Used or new rags, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables, of textile materials	6301-6302, 6308-6310	30
	Other made up articles	6303-6307	10
64	FOOTWEAR, GAITERS AND THE LIKE; PARTS OF SUCH ARTICLES	6401-6405	30
65	HEADGEAR AND PARTS THEREOF	6501-6507	10
66	UMBRELLAS, SUN UMBRELLAS, WALKING-STICKS, SEAT-STICKS, WHIPS, RIDING-CROPS AND PARTS THEREOF	6601-6602, 6603	30 10
67	PREPARED FEATHERS AND DOWN AND ARTICLES MADE OF FEATHERS OR OF DOWN; ARTIFICIAL FLOWERS; ARTICLES OF HUMAN HAIR	6702	30

Table 57. (continued)

68	ARTICLES OF STONE, PLASTER, CEMENT, ASBESTOS, MICA OR SIMILAR MATERIALS	6801-6803, 6805-6815 6804	30 10
69	Bricks, blocks, tiles and other ceramic goods of siliceous fossil meals (for example, kieselguhr, tripolite or diatomite) or of similar siliceous earths -Others	6901 00 690100900	30 10
	Refractory ceramic goods	6903	10
	Ceramic building bricks, flooring blocks, support or filler tiles and the like	6904-6905	30
	Ceramic pipes	6906	10
	Ceramic flags and paving, hearth or wall tiles; unglazed ceramic mosaic cubes and the like, whether or not on a backing	6907-6908	30
	Ceramic wares for laboratory	6909	10
	Ceramic sinks, wash basins, wash basin pedestals, baths, bidets, water closet pans, flushing cisterns, urinals and similar sanitary fixtures	6910-6914	30
70	Cullet and other waste and scrap of glass; glass in the mass; Glass in balls; Cast glass and rolled glass, in sheets or profiles; Drawn glass and blown glass, in sheets; Float glass and surface ground or polished glass, in sheets	7001 00-7005	30
	Non-wired glass, having an absorbent or reflecting layer	700510, 700521, 7006-7007	10
	Multiple-walled insulating units of glass, Glass mirrors	7008 00, 7009	30
	Carboys, bottles, flasks, jars, pots, phials, ampoules and other containers	7010-7012	10
	Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes	7013	30
	Signalling glassware and optical elements of glass	7014-7015	10
	Paving blocks, slabs, bricks, squares, tiles and other articles of pressed or moulded glass	7016	30
	Laboratory, hygienic or pharmaceutical glassware, whether or not graduated or calibrated	7017	10
	Glass beads, imitation pearls, imitation precious or semi-precious stones and similar glass smallwares, and articles thereof other	7018	30

Table 57. (continued)

	than imitation jewellery; glass eyes other than prosthetic articles		
	Glass fibres (including glass wool) and articles thereof (for example, yarn, woven fabrics); Other articles of glass	7019-7020	10
71	NATURAL OR CULTURED PEARLS, PRECIOUS OR SEMI-PRECIOUS STONES, PRECIOUS METALS, METALS CLAD WITH PRECIOUS METAL, AND ARTICLES THEREOF; IMITATION JEWELLERY; COIN	7101-7118	30
72	Bars and rods, hot-rolled, in irregularly wound coils, of iron or non-alloy steel	7213-7217 (except 721391900, 721610000, 721631190, 721650100)	20
73	ARTICLES OF IRON OR STEEL	7321-7323, 7326 90	10
74	Refined copper and copper alloys, unwrought; Copper waste and scrap; Master alloys of copper; Copper powders and flakes; Copper bars, rods and profiles; Copper wire; Other articles of copper	7403-7419	20
76	ALUMINIUM AND ARTICLES THEREOF	7604-7616	10
78	LEAD AND ARTICLES THEREOF	7803-7806	10
79	ZINC AND ARTICLES THEREOF	7904-7907	10
80	TIN AND ARTICLES THEREOF	8003-8007	10
81	Bars and rods, other than those obtained simply by sintering, profiles, plates, sheets, strip and foil	810192000-810199000, 810292000-810299000, 810390, 810890	10
82	TOOLS, IMPLEMENTS, CUTLERY, SPOONS AND FORKS, OF BASE METAL; PARTS THEREOF OF BASE METAL	8201-8203 8204-8215	20 10
83	Padlocks and locks	8301	10
	Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like	8302	30
	-Hinges; Other, suitable for furniture	830210, 830242	10
	Armoured or reinforced safes, strong-boxes and doors and safe deposit lockers for strong-rooms, cash or deed boxes and the like, of base metal; Filing cabinets, card-index cabinets, paper trays, paper rests, pen trays, office-stamp stands and similar office or desk	8303 - 8306, 8310	30

Table 57. (continued)

	equipment of base metal; Fittings for loose-leaf binders or files, letter clips, letter corners, paper clips, indexing tags and similar office articles, of base metal; Bells, gongs and the like, non-electric, of base metal; statuettes and other ornaments, of base metal; photograph, picture or similar frames, of base metal; Sign-plates, name-plates, address-plates and similar plates, numbers, letters and other symbols of base metal, excluding those of heading No. 9405;		
	Fittings for loose-leaf binders or files; Flexible tubing of base metal, with or without fittings;	830510000, 8307-8309, 8311	10
	Clasps, frames with clasps, buckles, buckle-clasps, hooks, eyes, eyelets and the like, of base metal, of a kind used for clothing, footwear, awnings, handbags, travel goods or other made up articles; Stoppers, caps and lids (including crown corks, screw caps and pouring stoppers); Wire, rods, tubes, plates, electrodes and similar products, of base metal or of metal carbides		
84	Fork-lift trucks; other works trucks fitted with lifting or handling equipment; Other lifting, handling, loading or unloading machinery	8427-8428	10
	Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included	8471	30
	Duplicating machines	8472 10 000	20
85	Electrical lighting or signalling equipment; Portable electric lamps designed to function by their own source of energy (for example, dry batteries, accumulators; Industrial or laboratory electric (including induction or dielectric) furnaces and ovens; Electric (including electrically heated gas), laser or other light or photon beam; Electric or storage water heaters and immersion heaters	8512-8516	10
	Electrical apparatus for line telephony or line telegraphy; Microphones and stands therefor; loud-speakers; Turntables (record-decks),	8517-8524	30

Table 57. (continued)

	record-players, cassette-players; Magnetic tape recorders and other sound recording apparatus; Video recording or reproducing apparatus; Parts and accessories of apparatus of heading Nos. 8519 to 8521; Prepared unrecorded media for sound recording; Records, tapes and other recorded media for sound		
	Transmission apparatus for radio-telephony, radio-telegraphy, radio-broadcasting or television; Radar apparatus, radio navigational aid apparatus and radio remote control apparatus	8525-8526	10
	Reception apparatus for radio-telephony, radio-telegraphy or radio-broadcasting; Television receivers (including video monitors and video projectors)	8527-8528	30
	Parts suitable for use solely or principally; Electric sound or visual signalling apparatus; Printed circuits; Electrical apparatus for switching or protecting electrical circuits; Boards, panels (including numerical control panels), consoles, desks, cabinets and other bases	8529, 8531, 8534-8538	10
	Electric filament or discharge lamps	8539	30
	Thermionic, cold cathode or photo-cathode valves and tubes; Diodes, transistors and similar semiconductor devices; Electronic integrated circuits and microassemblies	8540-8542	10
	Insulated (including enamelled or anodized) wire, cable (including co-axial cable) and other insulated electric conductors	8544	30
	Carbon electrodes, carbon brushes, lamp carbons, battery carbons	8545	10
86	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, trackliners, testing coaches and track inspection vehicles)	8604	10

Table 57. (continued)

87	Motor vehicles**** for the transport of ten or more persons, including the driver	8702	30
	Motor cars and other motor vehicles**** principally designed for the transport of persons (other than those of heading No. 8702), including station wagons and racing cars:		
	new:		
	Of a cylinder capacity not exceeding 1,000 cc	870321	30, but not less than 1.8 US\$ for cm ³
	Of a cylinder capacity exceeding 1,000 cc but not exceeding 1,500 cc	870322	30, but not less than 2.0 US\$ for cm ³
	Of a cylinder capacity exceeding 1,500 cc but not exceeding 3,000 cc	870323	30, but not less than 2.5 US\$ for cm ³
	Of a cylinder capacity exceeding 3,000 cc	870324	30, but not less than 3.0 US\$ for cm ³
	Used motor vehicles*****	8702-8704	10
	Motor vehicles for the transport of goods	8704	30
	Chassis for motor vehicles of heading 8703	870600910	30
	Bodies for the vehicles of heading 8703	870710	30
	Motorcycles	8711	30
	Trailers and semi-trailers	8716	10
88	Civil Aircraft (transport only)	880240100	10
89	SHIPS, BOATS AND FLOATING STRUCTURES	8901-8908	10
90	OPTICAL, PHOTOGRAPHIC, CINEMATOGRAPHIC, MEASURING, CHECKING, PRECISION, MEDICAL OR SURGICAL INSTRUMENTS AND APPARATUS; PARTS AND ACCESSORIES THEREOF	9001-9014, 9016 00	30
91	CLOCKS AND WATCHES AND PARTS THEREOF	9101-9106, 9112-9113	30
92	MUSICAL INSTRUMENTS; PARTS AND ACCESSORIES OF SUCH ARTICLES	9201-9209	20

Table 57. (continued)

94	Seats and parts thereof	9401 (except 940110)	30
	Other furniture and parts thereof	9403 (except 940320100)	30
	-Of wood	940390300	10
	Mattress supports; articles of bedding and similar furnishing (for example, mattresses, quilts, eiderdowns, cushions, pouffes and pillows) fitted with springs or stuffed or internally fitted with any material or of cellular rubber or plastics	9404	30
	-Other	940429900	10
	Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like, having a permanently fixed light source; Prefabricated buildings	9405-9406	10
95	Articles for funfair, table or parlour games	9504	30
	Festive, carnival or other entertainment articles, including conjuring tricks and novelty jokes; Fishing rods, fish-hooks and other line fishing tackle; fish landing nets, butterfly nets and similar nets; Roundabouts, swings, shooting galleries and other fairground amusements;	9505-9508	10
96	Worked ivory, bone, tortoise-shell, horn, antlers, coral, mother-of-pearl and other animal carving material, and articles of these materials (including articles obtained by moulding); Worked vegetable or mineral carving material and articles of these materials; Brooms, brushes	9601-9603	30
	Hand sieves and hand riddles; Travel sets for personal toilet, sewing or shoe or clothes cleaning; Slide fasteners and parts thereof; Ball point pens; felt tipped and other porous-tipped pens and markers; fountain pens, stylograph pens and other pens; duplicating stylos; propelling or sliding pencils; pen-holders, pencil holders and similar holders; Slates and boards, with writing or drawing surfaces; Date, sealing or numbering stamps, and the like (including devices for printing or embossing labels), designed for operating in the hand;	9604-9605, 9607-9616	10

Table 57. (continued)

	Typewriter or similar ribbons; Cigarette lighters and other lighters; Smoking pipes; Combs, hair-slides and the like; Scent sprays and similar toilet sprays, and mounts and heads therefor;		
	Buttons, press-fasteners, snap-fasteners and press-studs, button moulds and other parts of these articles; button blanks; Vacuum flasks and other vacuum vessels, complete with cases; parts thereof other than glass inners; Tailors' dummies and other lay figures; automata and other animated displays used for shop window dressing	9606, 9617, 9618 00 000	30
97	WORKS OF ART, COLLECTORS' PIECES AND ANTIQUES	9701-9706 00 000	30

- Notes:*
- * These rates of import duties are applied to commodities imported at the expense of charter fund in case of their sale and alienation;
 - ** Upon authorization of Main Department for control of quality of medicines and medical technology of the Ministry of Health of the Republic of Uzbekistan;
 - *** In accordance with the Agreement on Trade in Textile and Clothes with the European Union Countries, these categories set rates in accordance with import customs duties indicated in the Agreement;
 - **** These rates are applied also to vehicles with diesel engines;
 - ***** Used cars, produced 3 and more years ago.

Table 58. List of countries, parties of the Free Trade Area Agreement, registered at the Ministry of Justice dated 8 April, 1998 , No. 429

Armenia	Moldova
Azerbaijan	Russian Federation
Belarus	Tajikistan
Georgia	Turkmenistan
Kazakhstan	Ukraine
Kyrgyzstan	

(ii) Most-favoured-nation treatment

In accordance with intergovernmental agreements on trade and economic cooperation, Uzbekistan applies MFN treatment to 38 countries (table 59). MFN treatment is also applied to goods included in the Protocols on exemptions from the regime of free trade.

Table 59. List of countries which enjoy Most Favoured Treatment in accordance with the list registered at the Ministry of Justice dated 8 April, 1998, No. 426

1. Austria	20. Korea, Republic of
2. Bangladesh	21. Latvia
3. Belgium	22. Lithuania
4. Bulgaria	23. Luxembourg
5. China	24. Malaysia
6. Czech Republic	25. Netherlands
7. Denmark	26. Pakistan
8. Estonia	27. Poland
9. Finland	28. Portugal
10. France	29. Romania
11. Germany	30. Saudi Arabia
12. Greece	31. Slovak Republic
13. Hungary	32. Spain
14. India	33. Sweden
15. Ireland	34. Switzerland
16. Israel	35. Turkey
17. Italy	36. United States
18. Japan	37. United Kingdom
19. Jordan	38. Viet Nam

(iii) Arithmetical average import duty rate

Under the existing tariff regime, the arithmetical average import duty rate for all categories of import is 10.57 per cent.

(iv) Tariff exemptions

Resolution No. 137 of the Cabinet of Ministers dated 31 March 1998 on Additional Measures for Liberalization of Foreign Trade Activities in Uzbekistan stipulates that the following products are not subject to customs duties:

- (a) products supplied under intergovernmental or credit agreements signed on behalf of the Government of Uzbekistan or under its guarantees;
- (b) products imported from countries with which Uzbekistan has free trade agreements;
- (c) products imported through the Government Budget in accordance with the resolutions of the Government;¹¹²
- (d) products imported by foreign investors to Uzbekistan amounting to more than \$ 50 million, provided such imported products are for used as inputs for their own production.

In addition, products imported to the customs territory of Uzbekistan and/or exported according to the established procedures are not subject to customs duties, if:

- (a) they are displays for exhibitions, advertisement or presentations;
- (b) they constitute raw materials, components, or other inputs imported (exported) for industrial processing and manufacturing products subject to be exported (imported).

In accordance with Article 12 of the Law on Foreign Investments dated 30 April 1998, property imported for production purposes or for personal needs of foreign staff of enterprises with foreign investment is exempt from customs duties.

In accordance with Article 33 of the Law on the Customs Tariff, the following are exempt from the customs duties:

- (a) Transportation vehicles engaged in international transport of cargo, luggage and passengers as well as their logistic facilities, fuel, foods and other property required for regular operations, in places of stop-over or property acquired abroad because of an emergency (break-down) of such transportation vehicles;
- (b) National currency of Uzbekistan, foreign currency (except those used for numismatic purposes) as well as securities, pursuant to the law;
- (c) Logistic facilities and appliances, fuel, food and other property exported outside the customs territory in order to ensure the operation of vessels of Uzbekistan, vessels leased (freighted) by legal and natural

¹¹² Some goods in dire need (e.g. sugar, flour, meat) may be imported under the Government Programmes to provide for consumption by special consumers such as *Defence or Police Forces*.

persons of Uzbekistan engaged in sea trade and products of their trade imported into the customs territory of Uzbekistan;

- (d) Products to be transformed into state property in cases provided for by the legislation;
- (e) Articles imported into the customs territory or exported from it for official or personal use by the representatives of foreign states or by physical persons entitled to a duty-free importation of such objects, based on the legislation or international treaties of Uzbekistan;
- (f) Products imported into the customs territory of Uzbekistan or exported from it as a humanitarian aid, grant aid or for charity purposes within programmes of states, governments, international organizations, including technical assistance and for disaster relief; textbooks for free educational, pre-school and health care institutions;
- (g) Transit goods moved under customs control through the customs territory and intended for third countries;
- (h) Products moved across the customs border by natural persons and not intended for manufacturing or commercial activities, pursuant to the customs legislation.

In accordance with Decree UP-1702 of the President of Uzbekistan on Measures Designed for Further Stimulation of the Development of Private, Small and Medium-Sized Business dated 31 January 1997, customs duties are not imposed on technological equipment imported through foreign credits by leasing companies and small and medium sized manufacturing enterprises (SMEs). Further, in accordance with Decree UP-1987 of the President of Uzbekistan on Measures Designed for Further Stimulation of the Development of Private, Small and Medium-Sized Business dated 9 April 1998, the list was expanded to provide for exemption from customs duties on imported technological equipment required for their own production, or needs of SMEs.

In accordance with Resolution No. 500 of the Cabinet of Ministers of Uzbekistan on Forecast of Main Macro-economic Indexes and Parameters of the State Budget of Uzbekistan in 2001 dated 26 December 2000, imported technological equipment, for the purpose of establishing new technologies, or modernize existing ones for application in approved Projects,¹¹³ are exempt from customs duties.

¹¹³ Projects on modernization or establishing new technologies, in this context, are subject to approval by the Government.

(v) *Import bans*

Annex 5 to the Presidential Decree UP-1871 dated 10 October 1997 specifies the list of goods prohibited for import to Uzbekistan. The list includes printed materials, manuscripts, clichés, drawings, pictures, films, negatives, movies, video and audio products, phonographs, sound records which are aimed at (i) undermining (destabilizing) the state and public order, (ii) violating the Republic's territorial integrity, political independence or state sovereignty, (iii) propagating war, terrorism, or violence, (iv) ethnic exclusiveness, or (v) religious hatred, racism or its varieties (anti-Semitism, fascism), or pornographic materials.

In accordance with Government Resolution No. 213 dated 15 May 1998, the import and transit through the territory of Uzbekistan of ethylic spirit are prohibited.

(vi) *Tariff preferences*

The Republic of Uzbekistan applies the system of tariff preferences in accordance with the Agreement between Uzbekistan and the European Union on trade in textile goods. The Agreement had been signed on 8 June 1993 and was last amended on 4 December 1995. The Agreement stipulates maximum rates of customs duties applicable to textile products imported into Uzbekistan from the European Union. It should be noted that many textile products originating from the European Union are duty-free, or duties are lower than those imposed on textile products from other countries. In the Agreement the reduction of tariffs of products of HS Chapter 57, HS heading 5801, and HS heading 6302 is also fixed.

(vii) *Tariff quotas*

Uzbekistan does not apply tariff quotas.

(viii) *Quantitative restrictions of import*

Resolution No. 90 of the Cabinet of Ministers of Uzbekistan dated 14 March 2000 on Regulating Import and Export of Ozone Non-friendly Compounds, Products and their Derivatives, imposed quotas on the import of ozone non-friendly compounds to Uzbekistan for the period of 2000-2001.

(xi) *Import licensing*

According to Presidential Decree UP-1871 dated 10 October 1997 on Additional Measures on Stimulation of Export of Goods (products and services), specified goods are subject to licensing (armaments and military equipment;

precious metals, alloys, articles thereof, ores, concentrates, scrap and waste of precious metals, precious natural stones and articles thereof, uranium and other radioactive substances, articles thereof, waste of radioactive substances; devices and equipment using radioactive substances).

Annex 2 of Resolution No. 137 of the Cabinet of Ministers of Uzbekistan dated 31 March 1998 contains the list of specified goods (products and services), export and import of which is permitted only with permission of authorized bodies of Uzbekistan.

Resolution No. 151 of the Cabinet of Ministers of Uzbekistan dated 19 April 2000 on Regulation of Import to and Export from Uzbekistan of Environmentally Non-Friendly Products and Waste, prevents import to, export from and transit across the territory of Uzbekistan of dangerous waste, potentially toxic and virulent poisonous substances. In order to ensure the integration of the national economy into the world market through creation of a system of environmental certification, a list of goods and waste subject to obligatory environmental certification was adopted (Annex 1 to this Resolution).

Resolution No. 90 of the Cabinet of Ministers of Uzbekistan dated 14 March 2000 on Regulation of Import to and Export of Uzbekistan of Ozone Non-Friendly Compounds, Products, its Derivatives, ozone non-friendly substances imported to and exported from Uzbekistan as specified by the list annexed to the resolution is only permitted upon the authorization of the State Committee of Uzbekistan on Protection of Nature.

According to Resolution No. 293 of the Cabinet of Ministers of Uzbekistan dated 31 July 2000 on Import to, Export from and Transit Across the Territory of Uzbekistan of Narcotics, Psychotropic Substances and Precursors, it is necessary to obtain certificates issued by the concerned authorities of Uzbekistan for import to, export from and the transit across the territory of Uzbekistan of narcotics, psychotropic substances and precursors.¹¹⁴

(x) *Retaliation*

The Law on the Customs Tariff dated 29 August 1997 stipulates the introduction of special duties as a measure of retaliation against discriminatory actions taken by another country or group of countries against Uzbekistan. Currently, laws on safeguards, countervailing and anti-dumping measures are being drafted by the Ministry of Foreign Economic Relations. These laws will provide for retaliatory action in line with WTO requirements and provisions. Until their

¹¹⁴ Precursors are substances used for production of drugs and psychotropic substances.

enactment, the active legislation for retaliatory action is contained in the Law on the Customs Tariff of 29 August 1997. That law allows safeguards on imported goods if such goods cause damage to domestic manufacturers of similar goods and are basically a “tit-for-tat” kind of arrangement.

(xi) *Pre-shipment inspection*

In order to ensure the importation of quality consumer goods, foodstuffs, machinery, equipment and technologies, the Cabinet of Ministers of Uzbekistan adopted Resolution No. 534 dated 3 December 1997 on Measures of Independent Expertise of Contracts and Pre-shipment Inspection of Imported Goods. This Resolution provides for an independent examination of contracts to be conducted by consulting firms with regard to conformity with quality, quantity, price of imported goods and other contract terms and pre-shipment inspection as well.

An independent examination of import contracts and a pre-shipment inspection of imported goods shall be carried out by the consulting firms pursuant to the requirements of the International Federation of Inspection Agencies accredited by “Uzgosstandart” (State Standards Committee) under the Cabinet of Ministers of Uzbekistan, in accordance with internationally accepted procedures and agreed on with the International Chamber of Commerce, exporters’ standards of quality guarantees, and the GATT/WTO Agreement on Pre-shipment Inspection.

Economic entities in Uzbekistan engaged in importation of goods are entitled at their own discretion to request consulting firms to make an independent contract examination and pre-shipment inspection.

Moreover, Resolution No. 66 of the Cabinet of Ministers of Uzbekistan dated 2 February 2001 stipulates that customs clearance under the “Free Import” regime from 1 March 2001 of the following goods: meat and meat sub products; dairy products; oil seeds; alcoholic and non-alcoholic drinks; tobacco products; equipment and mechanical appliances; electrical machines and equipment with total value of more than \$ 10,000 is carried out only after obligatory pre-shipment inspection, except for cases provided for by the legislation.

Pre-shipment inspection is not applied to:

- (a) importation of goods under contracts of a total value not more than \$ 10,000;
- (b) specific goods imported under licensing issued by the MFER.

(xii) *Customs fees and charges*

The new Customs Code of Uzbekistan adopted by the Oliy Majlis on 29 August 1997 imposes the following fees during customs clearance: (a) for customs clearance; (b) for customs services; and (c) issuance of the customs certificate.

Resolution No. 204 of the Cabinet of Ministers of Uzbekistan, dated 30 April 1999 on Rates of Custom Duties, eliminates customs clearance fees at customs border in the following cases:

- when goods and means of transport for humanitarian aid and grant aid or for charity purposes, including technical assistance to help eliminate the drastic consequences of accidents, catastrophes and natural disasters ect. transit across the customs border of Uzbekistan;
- when goods of legal entities have a value tenfold the amount of the minimum wage rate or less;
- when goods of physical persons¹¹⁵ have a value not higher than the maximum quotas on duty-free exports and imports;
- when “renunciation in favour of the state”¹¹⁶ and “temporary storage” customs regimes are applied;
- when there is transit of goods through the customs territory of Uzbekistan to countries, with which Uzbekistan has agreements on free trade, and from these countries on a parity basis (i.e. exemption from customs clearance fees is made on the basis of reciprocity).

¹¹⁵ The law of Uzbekistan identifies two kinds of persons: physical and legal. Physical persons may consist of citizens, non-citizens and those without citizenship. Any business companies or other institutions with the rights to sign contracts, are property owners and have the ability to be plaintiff or defendant before the court may be considered to be legal entities. Note that a physical person obtains the status of legal entity as soon as he/she establishes and registers his/her business. At the same time, the system of “private entrepreneur without foundation of legal entity” is being widely used in Uzbekistan. Despite that they have banking business account and stamps they are closer by their legal status to physical person.

¹¹⁶ Renunciation in favour of the state is a type of customs regime established by the Customs Code of Uzbekistan. The regime stipulates that foreign commodities being imported into Uzbekistan may be relinquished to (“in favour of”) the State. Renunciation may take place when goods being imported have no more value (outdated, perished) for further import processing or when an importer is not being able to carry out all financial obligations during customs clearance. It is essential to note that customs duties are not applied in this case and the regime is applicable to foreign commodities if authorized only by customs officials.

- when there is import of goods for official usage by the foreign diplomatic or consular missions, or by international associations and organizations enjoying certain customs preferences, as well as export of goods from Uzbekistan designed to ensure operation of diplomatic missions of Uzbekistan and those conferred the same status, with the exception of duties charged for storage and customs clearance fees on goods outside the established places or not during the customs authority's normal office hours;
- when goods of cultural value, which are stored on a permanent basis at the state museums, libraries, archives and other state depositories of objects with cultural value of Uzbekistan, are exported temporarily on the condition of return;
- when goods of cultural values are temporarily imported to Uzbekistan by state museums, libraries, archives and other state depositories of Uzbekistan for the purpose of their temporary exhibition and condition of return to the country of origin after exhibitions, shows and similar events;
- when military goods of the Ministry of Defence, the National Security Service, the Ministry of Internal Affairs, the Emergency Ministry, the Committee on Border Protection and the State Customs Committee of Uzbekistan are being imported or exported.

(xiii) Value added tax

The Tax Code of Uzbekistan imposes a 20 per cent VAT rate on products (goods and services) imported to Uzbekistan. VAT on imported goods is paid before or during the customs formalities.

Article 71 of the Tax Code and other individual normative acts of Uzbekistan specifies the list of VAT exemptions.

(xiv) Excise tax on imports

In accordance with Article 82 of the Tax Code, the list of goods subject to excise tax as well as the specified excise tax rates are established by the Cabinet of Ministers of Uzbekistan. For imported goods subject to excise, the tax shall be based on the customs value determined in conformity with the customs legislation. Excise taxes on imported goods should be paid before or during the customs formalities.

(b) *Export regime*

(i) *Customs tariff on export*

Presidential Decree UP-1871 dated 10 October 1997 on Additional Measures to Encourage the Export of Products (goods and services) abolished customs tariff on exports.

(ii) *Export tax preferences*

In accordance with the Decree of the President of Uzbekistan dated 5 June 2000 on Further Measures for Stimulating Producers of Export Products, income of exporting enterprises of any form of ownership (i.e. private, public or joint stock), generated from exports of their own products or services are exempt from taxes on incomes (profit).¹¹⁷

Additionally, the following scheme of tax payment for property, depending on share of export products (goods and services) of own production in total sales is in force for exporting enterprises of all forms since 1 July 2000:

- if the share of export is 25-50 per cent – established tax rate on property is reduced by 50 per cent;
- if 50 per cent and more – tax on property is not imposed.

With the aim to further stimulate foreign investment to develop an export-oriented production structure in the provinces of the Republic, Resolution No. 393 of the Cabinet of Ministers of Uzbekistan, dated 11 October 2000, provides for a grace period of taxes on incomes (profit) of three years from the moment the new foreign-invested entity starts production in the rural areas. Also, this Resolution stipulates that after expiry of the grace period during the next two years, the tax rate on incomes (profit) for similar joint ventures is set at 50 per cent of the current taxation rate.

(iii) *Export quotas*

Presidential Decree UP-1871 dated 10 October, 1997 on Additional Measures to Stimulate the Export of Goods (products and services) abolished export quotas.

¹¹⁷ Article 6 of the Tax Code of Uzbekistan stipulates that income (profit) is imposed on legal entities. Banks, trading companies and insurance companies are subject to profit tax, while income tax is imposed on production and service companies. Profit tax is imposed after deduction of value-added and excise taxes.

(iv) *Export licensing*

Pursuant to Presidential Decree UP-1871 of 10 October 1997, export licensing requirements for products (goods and services) were abolished from 1 November 1997, except for specific goods (armaments and military equipment; precious metals, alloys, articles thereof, ores, concentrates, scrap and waste of precious metals, precious natural stones and articles thereof, uranium and other radioactive substances, articles thereof, waste of radioactive substances; devices and equipment using radioactive substances).

Annex 2 of Resolution No. 137 of the Cabinet of Ministers dated 31 March 1998 provides the list of specific products (goods, services) the export and import of which is permitted upon authorization issued by authorized bodies of Uzbekistan.

(v) *Export bans*

Annex 4 to Presidential Decree UP-1871 of 10 October 1997 specifies the list of products the export of which is prohibited from the territory of Uzbekistan. This list includes: (a) grain; (b) baked products; (c) flour and cereals; (d) cattle and poultry; (e) meat and meat products; (f) powder milk; (g) tea and raw tea; (h) sugar; (i) antiques; (j) vegetable oil; (k) leather; and (l) ethyl spirit.

According to Decree UP-2212 of the President of Uzbekistan dated 5 February 1999, this list is supplemented by one more category: scrap and waste of precious metals.

According to Decree UP-2553 of the President of Uzbekistan dated 28 February 2000 on Normalization of Export of Silk Products, with the purpose of safe and rational use of silk cocoon produced in the country and guaranteeing a maximum supply of raw silk to silk sector enterprises, export from Uzbekistan of silk cocoon, raw silk (non twisted), and silk waste is prohibited from 1 March 2000.

(vi) *Export licensing procedures*

Export-import licensing procedures for the above-mentioned goods are formulated by the Ministry of Foreign Economic Relations on the basis of Resolutions of the Cabinet of the Ministers of Uzbekistan. Export licensing of other specific products is undertaken by other relevant authorities of the country.

(vii) *Excise tax on exports*

In accordance with Article 80 of the Tax Code, the export of excisable goods is not subject to excise tax, except for cases when products (goods, services) are sold to states, which apply excise taxation on products (goods, services) exported to Uzbekistan. At the same time, certain goods exported from Uzbekistan are subject to excise tax. By its Resolution No. 500 dated 26 December 2000 the Cabinet of Ministers determined the list of export goods subject to excise tax excluding goods exported for freely convertible currency by producers of these goods and their official dealers.

(viii) *Transit bans*

Annex 6 to Presidential Decree UP-1871 contains the list of articles prohibited for transit through the territory of Uzbekistan. This list includes (a) armaments, ammunition and military equipment; (b) aircraft, their parts, devices and equipment (c) machine tools and machinery for manufacturing armaments, ammunitions and aircraft; (d) explosives; (e) strong poisons; and (f) other articles banned for importation to Uzbekistan. The transit of the above-listed articles might be allowed upon the authorization issued by MFER, with approval of the Cabinet of Ministers of Uzbekistan. According to Resolution No. 213 of the Cabinet of Ministers dated 15 May 1998, transportation of ethylic spirit through the territory of Uzbekistan is prohibited.

4. Policy and legislation of Uzbekistan in the area of protection of intellectual property rights

Since independence the Government of Uzbekistan has maintained an intellectual property right protection regime similar to those applied in developed countries. In fact, the Government has adopted more than 50 legislative acts, norms, decrees and regulations with regard to intellectual property rights protection (table 60).

First of all, the Constitution of Uzbekistan could be considered as a fundamental basis providing an effective system of intellectual property rights protection. In particular, Article 17 of the Constitution stipulates that generally recognized principles and norms of international law are an integral part of the national legal system. The structure of national legislation comprises international treaties of Uzbekistan, and norms of international treaties are applied if stipulated by national legislation.

Table 60. List of the main legal acts, norms, decrees and rules related to protection of intellectual property rights

Laws:

1. The Constitution of the Republic of Uzbekistan (adopted on 8 December, 1992).
2. The Civil Code of the Republic of Uzbekistan (adopted on 29 August, 1996, entered into force on 1 March, 1997).
3. The Criminal Code of the Republic of Uzbekistan (adopted on 22 September, 1994).
4. The Civil Procedural Code of the Republic of Uzbekistan (adopted on 29 August, 1997).
5. The Labour Code of the Republic of Uzbekistan (adopted on 21 December, 1995).
6. The Code of the Republic of Uzbekistan on Administrative Responsibility (adopted on 22 September, 1994).
7. The Economic Procedural Code of the Republic of Uzbekistan (adopted on 30 August, 1997).
8. The Customs Code of the Republic of Uzbekistan (adopted on 26 December, 1997, entered into force on 1 March, 1998).
9. The Tax Code of the Republic of Uzbekistan (adopted on 26 December, 1997, entered into force on 1 March, 1998).
10. Law of the Republic of Uzbekistan on trade-marks and service marks (adopted on 7 May, 1993, entered into force on 2 June, 1993 (with the subsequent supplements and amendments, introduced on December, 2000)).
11. Law of the Republic of Uzbekistan on Informatization (adopted on 7 May, 1993, entered into force on 1 June, 1993).
12. Law of the Republic of Uzbekistan on Protection of the Programmes for Electronic Computers and Databases (adopted on 6 May, 1994, entered into force on 28 May, 1994).
13. Law of the Republic of Uzbekistan on Inventions, Utility Models and Industrial Designs (adopted on 6 May, 1994, enacted on 1 June, 1994 (with the subsequent supplements and amendments, introduced on 26 December, 1997)).
14. Law of the Republic of Uzbekistan on Selection Achievements (adopted on 30 August, 1996, entered into force on 11 September, 1996).
15. Law of the Republic of Uzbekistan on Copyright and Neighbouring Rights (adopted on 30 August, 1996, entered into force on 17 September, 1996).
16. Law of the Republic of Uzbekistan on Competition and Restriction of Monopolist Activity in the Commodity Markets (adopted on 27 December, 1996).
17. Law of the Republic of Uzbekistan on Foreign Investments (adopted on 30 April, 1998).

Table 60. (continued)

18. Law of the Republic of Uzbekistan on Guarantees and Measures of Protection of the Rights of Foreign Investors (adopted on 30 April, 1998).
19. Law of the Republic of Uzbekistan on Protection of the Rights of Consumers (adopted on 26 April, 1996).
20. Law of the Republic of Uzbekistan on Property in the Republic of Uzbekistan (adopted on 31 October, 1990 (with the subsequent supplements and amendments).
21. Law of the Republic of Uzbekistan on Audit Activity (adopted on 9 December 1992).
22. Law of the Republic of Uzbekistan on Insurance (adopted on 6 May, 1993).
23. Law of the Republic of Uzbekistan on Certification of Products and Services (adopted on 28 December, 1993).
24. Law of the Republic of Uzbekistan on Advocacy (adopted on 27 December, 1996).

Decrees, Resolutions and Other Legislative Measures:

1. Decree No. UP-345 of the President of the Republic of Uzbekistan of 18 February, 1992 on Establishment of State Committee of the Republic of Uzbekistan on Science and Technology (GKNT of the Republic of Uzbekistan).
2. Resolution No. 360 of the Cabinet of Ministers of 3 August, 1992 on Improvement of the Structure and Activity of State Committee of the Republic of Uzbekistan on Science and Technology.
3. Resolution No. 91 of the Cabinet of Ministers of 20 March, 1995 on Bringing of Decisions of the Government of Republic of Uzbekistan in Conformity with the Law on Inventions, Utility Models and Industrial Designs.
4. Resolution No. 331 of the Cabinet of Ministers of 21 August, 1995 on Rates of Fees for Official Registration of the Computer Programmes and Databases.
5. Resolution No. 294 of the Cabinet of Ministers of 17 June, 1993 on Establishment of Rule on Legal expertise and state registration of the statutory acts of the ministries, state committees and offices having mandatory nature.
6. Temporary Rules of Compiling, Submitting and Considering of the Applications on Official Registration of the Computer Programs and Databases of 15 August, 1997.
7. Temporary Rules of Registration of the Agreements on the Computer Programmes and Databases of 15 August, 1997.
8. Instruction on Registration Fees for Official Registration of the computer programmes, Databases and Agreements for Transfer of Property Rights.
9. Rule No. 366 of Compiling the Application on Issuance of the Certificate of the Republic of Uzbekistan on Utility Model, registered at the Ministry of Justice of the Republic of Uzbekistan of 10 September, 1997.

Table 60. (continued)

10. Rules No. 365 of Compiling the Application on Granting a Patent, Preliminary Patent of the Republic of Uzbekistan for the Invention, registered at the Ministry of Justice of 10 September, 1997.
11. Rules No. 367 of Compiling the Application on Granting a Patent, Preliminary Patent of the Republic of Uzbekistan for an Industrial Design, registered at the Ministry of Justice of 10 September, 1997.
12. Rules No. 368 of Compiling and Application for Registration of the Trade-mark and Service mark, registered at the Ministry of Justice of 10 September, 1997.
13. Charges on Patenting of the Inventions, Utility Models, Industrial Designs, for registration of the Trade-mark and Service marks.
14. Temporary Regulations on the Patent Attorneys of the Republic of Uzbekistan.
15. Temporary Regulations on Appeal Council of the State Patent Office of the Republic of Uzbekistan.
16. Rules of submission and consideration of the application of patent-holder about entitlement on the open license and publications of the items of information about such application.
17. Rules of Prolongation of Validity of the Certificate of the Republic of Uzbekistan on Utility Model.
18. Rules of Prolongation of Validity of the Patent of the Republic of Uzbekistan on an Industrial Design.
19. Rules of Prolongation of Validity of the certificate of registration of the trade-mark and service mark and amendments in the certificate of registration of the trade-mark and service mark.
20. Rules of consideration and registration of the agreements about assignment of the rights on the invention, utility model, industrial design and license agreements about providing a right on usage of the invention, utility model and industrial design.
21. Rules of Amendments or Supplements in the registered license agreement.
22. Temporary Procedure of Pre-expiry Cancellation and Dissolving of the Security Documents.
23. Temporary Procedure of undertaking by the applicant of procedural actions at design of the rights on facilities of industrial property.
24. Temporary Procedure of collection of fees for patenting and registration of selection achievements and temporary rates of these fees for patenting and registering of selection achievements (Order of the director of State Patent Office of 3 September, 1997).
25. State List of botanic zoological species and species protected in the Republic of Uzbekistan (the Order of the Ministry for Agriculture and Water Resources of 4 December, 1997).
26. Rules on appropriation of a title to species of plants (Order of the Ministry for Agriculture and Water Resources of 3 June, 1997).

In addition, the following articles of the Constitution include the basic principles for the establishment of an effective system of intellectual property rights protection: Article 11 on distribution of powers, Article 23 on guarantees of rights and freedom of foreign citizens and persons without citizenship, Article 36 on property rights, Article 42 on freedom of scientific and technological creation, Article 44 on judicial protection of rights and freedoms, and Article 53 on guarantee of property inviolability.

The General system of ensuring intellectual property rights protection in the Republic of Uzbekistan includes:

- (1) a sub-system of national legislation related to the area of protection and legal use of rights for intellectual property;
- (2) combination of competent bodies of executive powers providing intellectual property rights protection;
- (3) a sub-system of administrative and judicial protection of rights of intellectual property holders.

Uzbekistan is a member of important international agreements in the area of industrial property protection, is improving and harmonizing its legislative framework and is taking concrete steps to enhance international cooperation in the area of intellectual property rights protection through accession to other international treaties and agreements. In particular, Uzbekistan is a member of following international conventions in the area of intellectual property rights protection:

- (1) Convention on the Foundation of the World Intellectual Property Organisation, WIPO (enacted on 18 August 1993);
- (2) Paris Convention for the Protection of Industrial Property (enacted on 25 December 1995);
- (3) Madrid Treaty on International registration of marks (enacted on 25 December 1991);
- (4) Patent Co-operation Treaty (PCT) (enacted 18 August 1993);
- (5) Treaty on Laws on Trademarks (enacted on 4 September 1998);
- (6) Convention on Biologic Diversity (enacted on 17 December 1995);
- (7) Energy Charter Treaty of OSCE (enacted on 16 April 1998).

In addition, Uzbekistan is party to the following multilateral interstate agreements signed within CIS:

- (1) on measures on industrial property protection and creation of an Interstates Council on industrial property protection issues;
- (2) on cooperation for prevention of infringements in the area of intellectual property;
- (3) on mutual ensuring safety of interstate secrets;
- (4) on legal protection of inventions;
- (5) on measures for prevention of illegal use of trade marks and geographical indications.

Uzbekistan signed 8 bilateral interstate agreements on intellectual property protection with Azerbaijan, China, Georgia, Kazakhstan, Kyrgyzstan, the Russian Federation, Turkey, and Ukraine.

Currently, Uzbekistan ensures protection of almost all kinds intellectual property. The responsibility for intellectual property rights protection is shared among the following state authorities:

- (1) State Copyright Protection Agency under the Cabinet of Ministers ensures protection of copyrights and neighbouring rights;
- (2) State Patent Department under the State Committee on Science and Technology of Uzbekistan ensures protection of rights on inventions, utility models, layout designs, trademarks, geographical indications, breeding achievements, computer programmes and database;
- (3) State Committee on De-monopolization and Development of Competition, as an antimonopoly body, tackles state policy on development of competition on commodity markets, restriction and prevention of monopolistic activity and unfair competition of economic operators, and controls over observance of antimonopoly legislation in the area of consumer rights protection;
- (4) State Customs Committee, in accordance with current legislation, takes part in development of customs policy and in its realization, ensures observance of customs legislation, undertakes measures to protect rights and interests of legal and natural persons, prevents illegal trade in articles of art, historical and archeological property of Uzbekistan and foreign countries, intellectual property objects,

animals and plants, which are under threat of becoming extinct, through the customs territory of Uzbekistan, and performs other functions according to its basic objectives;

(5) Home affairs bodies.

The general policy of Uzbekistan is to accord equal treatment and rights of foreign citizens, persons without citizenship and foreign legal persons on the territory of the Country with citizens of Uzbekistan.

There are special provisions concerning national treatment in the Civil Code (Article 7), in the Laws on Inventions, Utility Models and Industrial Designs (Article 42), on Trademarks and Service Marks (Article 33), on Breeding Achievements (Article 2) and on Legal Protection of Computer Programmes and Database (Article 9).

Besides, the laws of Uzbekistan provide for administrative, financial and criminal procedures against violators in the area of intellectual property.

The Partnership and Cooperation Agreement between Uzbekistan and the European Union was enacted on 1 July 1999. According to paragraph 1 of Article 41 (on "Protection of Intellectual, Industrial and Commercial Property") of this Agreement, "Uzbekistan continues to improve protection of intellectual, industrial and commercial property in order to achieve the level of protection appropriate to that of the Union including efficient means for reinforcing such rights after 5 years period since the Agreement has been in force". According to Paragraph 2 of Article 41, "After 5 years period since the Agreement has been in force, the Republic of Uzbekistan shall accede multilateral conventions on intellectual, industrial and commercial rights, indicated in Paragraph 1 of Annex V, to which member-states have joined or apply them de-facto according to the terms of these conventions".

In particular, current measures aimed to adapt current national legislation to norms and requirements of the World Trade Organization are being taken on a continuing and systematic basis in Uzbekistan. In particular: the new version of the Law on Foreign Economic Activity was adopted (26 May 2000, Second Session of the Oliy Majlis of Uzbekistan, Second Convocation); during the Fourth Session of the Oliy Majlis (December 2000) amendments were introduced into the Civil Code, Laws of Uzbekistan on Copyrights and Neighbouring Rights and on Trademarks and Service Marks. Moreover, the Government is considering the drafts of the following laws: on Safeguard Measures, on Antidumping Duties, on Countervailing Measures and on Government Procurements.

5. Uzbekistan's accession to the WTO: an assessment of progress

(a) Institutional framework

International organizations facilitate economic cooperation among states and play an important role in addressing problems resulting from globalization and promoting economic development in all regions of the world. The World Trade Organization (WTO) is the largest international organization providing a legal and institutional framework for the multilateral trading system.

In this context, the Government of Uzbekistan accords high importance to its accession to the WTO as a full member, and is currently implementing a set of measures for this purpose.

Thus, according to the Resolution of the Cabinet of Ministers of Uzbekistan, an Inter-ministerial Committee on WTO issues, headed by the Prime-Minister of Uzbekistan, Mr. U.T. Sultanov, was established in December 1998. The Committee consists of representatives of the Cabinet of Ministers of Uzbekistan, Ministry of Foreign Economic Relations, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Macro-Economics and Statistics, Ministry of Finance, Ministry of Agriculture and Water Resources, State Committee on Science and Technology, State Committee on Property and Privatization, State Tax Committee, State Customs Committee, National Bank of Foreign Economic Activity, Central Bank. According to the Resolution, the Ministry of Foreign Economic Relations fulfils the duties of the Secretariat of the Inter-ministerial Committee on WTO issues.

At the same time, each of these organizations has established its working group on WTO issues. In addition to the above-mentioned institutions, working groups have been established in the following organizations: Ministry of Health, Ministry of Labour, Ministry for Power Industry and Electrification, UzGosstandard (Standardization Committee), State Committee for Nature Protection, Association of Textile and Light Industry Enterprises "Uzbeklegprom", Posts and Telecommunications Agency, 'Uzbekinvest' National Export-Import Insurance Company, Republican Engineering Company "Uzinvestproekt".

The Working Groups deal with such activities as preparation of a list of concessions and commitments on goods and services, preparation of replies to questions submitted by the WTO members on the Memorandum on Foreign Trade Regime, and other issues raised within the context of WTO accession and agreements.

Also, it should be noted that Uzbekistan takes active part in events organized by the World Trade Organization. Uzbekistan was represented by a high level delegation at the last three WTO Ministerial Meetings in Singapore

(December 1996), Geneva (May 1998) and Seattle (Nov.-Dec. 1999). Along with this, permanent consultations on accession of Uzbekistan to the WTO with member-states and representatives of the WTO Secretariat are held.

(b) *Technical assistance*

In order to prepare Uzbekistan for accession to the WTO, joint technical assistance programmes were implemented by TACIS (Technical Assistance Programme of the European Union for the CIS), United States Agency on International Development (USAID), and the United Nations Commission on International Trade Law (UNCITRAL) during 2000-2001. In January 1999, TACIS launched the Intermediate Project on technical assistance to the Republic of Uzbekistan on its accession to the WTO. Despite the limited timeframe of this project (six months), a lot of work was done by the experts under the project.

In the implementation of this project, the following measures were carried out for the members of the working groups on WTO issues established in ministries and departments of the country:

- (1) Maintaining contacts with the members of working groups on WTO issues established in the ministries and departments of the country;
- (2) Participation in the meeting of Inter-ministerial Committee on WTO issues (9 February, 1999);¹¹⁸
- (3) Preparation of information material and conducting the seminar on Multilateral Agreements on Trade of Goods (23 March 1999);
- (4) Preparing and conducting the seminar within the framework of agreements on textile and agriculture with national experts elaborating on appropriate directions (25-28 May 1999);
- (5) Organizing the seminar on preparation of a list of concessions on market access of goods and services (28 May 1999).

USAID provided assistance in the following areas: consultations and technical assistance to concerned government bodies of the country on numerous specific regulations and requirements of a number of WTO Agreements; financial and banking; issues related to development of a securities market; development of health care and pension schemes; and legal reform.

¹¹⁸ First Meeting of Inter-ministerial Committee. Second one held in December 1999.

Also, jointly with USAID training programmes were held such as “WTO requirements and Accession of the Republic of Uzbekistan to the WTO”, “Training on Negotiations in the WTO”, “Methodology on Fulfillment of Relevant Information Tables within the Concessions on Agricultural Products”, etc.

On 17-18 October 2000, in Tashkent, a Seminar on International Trade Law was held by experts of UNCITRAL, participated by representatives of about 15 ministries and institutions of the Republic.

Representatives of the Republic of Uzbekistan annually participate in the Seminar “Geneva Week” (1-5 November 1999 and 21-27 October 2000), organized by the WTO Secretariat for representatives of those WTO Member States and observers which do not have permanent missions in Geneva with the aim to exchange experience and obtain necessary information on current activities of the WTO. In order to ensure consistent and continuing technical assistance in the area of WTO accession, the Ministry of Foreign Economic Relations sent a request to the WTO Secretariat in August 2000 requesting technical assistance for 2001.

Table 61 describes the stages passed by Uzbekistan since the beginning of the process of accession to the WTO, while table 62 provides a list of seminars on WTO issues with the participation of officials of ministries and departments of the country.

(c) *Questions from WTO members*

Currently, Uzbekistan is preparing a systematic response to questions from various WTO Member States. Already, responses to questions of Australia, the European Union, New Zealand and the United States have been forwarded to the WTO Secretariat. The questions submitted by the above-mentioned countries reflect the specific character and areas of their interests.

Australia addressed issues concerning agriculture, import regulation, system of customs tariffs, export regulation, and the matters concerning the system of regulation and implementation of the WTO Agreement on the Application of Sanitary and Phyto-sanitary Measures, among others.

The European Union presented questions on issues like pricing policy in the power and pharmaceutical sectors, process and procedures of privatization policy and foreign investors’ participation in it, regulation of the financial sector (mechanism of currency transactions in banks), system of government procurement,

Table 61. History of Uzbekistan's Accession to WTO

Date	Description of measures
1994	The status of observer to WTO was obtained by Uzbekistan (June). The Government of Uzbekistan presented an application on its intention for the membership in WTO (December).
1995	A working group on study of issues of Uzbekistan's accession to WTO was established (January).
1996	Official Uzbek delegation participated at the First Ministerial Conference of WTO (Singapore, December).
1998	The Memorandum on foreign trade regime of Uzbekistan was presented to the Secretary of WTO (September). The resolution of the Cabinet Ministers of Uzbekistan No. 520 dated from 12/14/98 was introduced. The resolution approved the staff of Intergovernmental commission on WTO (December). Official Uzbek delegation participated at the Second Ministerial Conference of WTO (Geneva, May).
1999	First and second meetings of Intergovernmental commission on WTO were held in February and December. Initial questionnaires on the Memorandum on foreign trade regime of Uzbekistan were received from Australia, European Union (March), New Zealand (July), United States (August). Response to the questionnaire of Australia was presented to the Secretary of WTO (August). Official Uzbek delegation participated at the Third Ministerial Conference of WTO (Seattle, November-December).
2000	Additional inquiries on the Memorandum on foreign trade regime of Uzbekistan were received from the United States and New Zealand (February, August). The Secretariat of WTO was presented with the response to inquiries of New Zealand, European Union (February), and to additional inquiries of New Zealand (October).
2001	Inquiries of the United States were responded and response was presented to the Secretariat of WTO (February).

Table 62. Participation of official representatives of the ministries and departments of Uzbekistan at seminars on the WTO

Topic of seminars	Organizers of seminars	Date and place
Multilateral trade agreements	TACIS	March 23, 1999 Tashkent
Agriculture and textile industry	TACIS	May 25, 1999 Tashkent
Tariff and non-tariff measures, technical barriers in trade, sanitary and phytosanitary measures	TACIS	June 1, 1999 Tashkent
Issues of CIS countries in the process of accession to WTO	TACIS	May 17-18, 2000 Moscow
Requirements of WTO and introduction of Uzbekistan	USAID	June 14-18, 1999 Tashkent
Organization of the Negotiation Process with WTO	USAID	June 21-25, 1999 Tashkent
Intellectual property rights, their protection, realization, application in terms of transition.	USAID	March 17-28, 2000 Tashkent
Requirements of WTO to national legislation on antidumping and countervailing duties and protectionist measures	USAID	June 15-16, 2000 Tashkent
General Agreement of WTO on Trade in Services	Secretariat of WTO	September 11-15, 2000 Geneva
International trade and application of agreements of WTO	Secretariat of WTO	September 29– October 16, 2000 Seoul
Regional seminar on WTO rulings	Secretariat of WTO	February 6-9, 2001 Hanoi
Law of international trade	UNCITRAL	October 17-18, 2000 Tashkent
Seminar on accession to WTO	Ministry of foreign aff. Estonia	April 13-14, 2001 Tallinn

state order in respect of cotton and grain,¹¹⁹ prospects for development of agricultural sector, provisions of national legislation on intellectual property, conditions of access to services' market for foreigners (banking and professional services), export, import and customs regulation, issues of regulation related to standards.

In its questions, *New Zealand* touched upon the following aspects of Uzbekistan's trade regime: currency control and tax policy, export and import regulation, agriculture, procedures of tender bids, interrelation of provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures and Technical Barriers in trade.

Questions submitted by *the United States* covered practically all aspects of the Memorandum presented. The main part of questions of the United States was devoted to the policy regulating trade in products. In particular, the United States requested more comprehensive information concerning registration requirements for import operations; description of national tariff and customs valuation; preshipment inspection procedures; taxation for import-export of products; technical norms and standards in trade; state trade policy; protection of intellectual property rights; trade in services; pricing policy; a system of currency exchange; investment policy; policy in privatization and competition.

In preparing responses to the questions,¹²⁰ the Government of Uzbekistan analyzed the accession process of Estonia, Georgia, Kyrgyzstan, and Latvia to learn from their experiences and peculiarities of the negotiation processes of other countries of the former Soviet Union that successfully acceded to the WTO.

(d) *Current status of accession*

At present, Uzbekistan is working on a wide range of measures to address organizational, legislation-creative, technical and other issues related to the process of accession to the WTO. The working groups dealing with the WTO issues can also be regarded as a part of this process. It includes preparation of the following information materials in accordance with provisions of the WTO Agreements:

- (a) WT/ACC/4 forms (relevant information tables concerning concessions on agricultural products);

¹¹⁹ There are some differences between "state order" and "state procurement". State order, as a rule, means that a state makes an order to domestic producers to produce a particular goods which are purchased by the State. State procurement implies the purchase of products in great demand. In this context, "state order" is not the same as "government procurement" in the sense of the WTO Agreement definition.

¹²⁰ The WTO Secretariat has published its documents (WT/ACC/UZB/3, WT/ACC/UZB/3/Add.2, WT/ACC/UZB/3/Add.3, and WT/ACC/UZB/3/Add.4) containing Uzbekistan's replies to the questions.

- (b) WT/ACC/5 forms (lists of concessions on tariffs and services);
- (c) WT/ACC/8 (basic rules and commitments, control list of illustrative issues in accordance with the Agreement on the Application of Sanitary and Phyto-sanitary Measures for consideration of accession to the WTO);
- (d) WT/ACC/8 (control list of illustrative issues in accordance with the Agreement on Technical Barriers in Trade for consideration of accession to the WTO);
- (e) Technical regulation and standards, compliance with the WTO technical regulations and standards.

At present, the country is pressing ahead with economic liberalization, reform and development, including reduction of controlling and regulating functions of state and restriction of the State's interference in economic operations of enterprises, particularly in private business; priority development of small and medium scale business; targeted implementation of structural reforms; and liberalization of currency and foreign trade regimes. In this context, the Government has identified the following priority objectives for the near future:

- (1) ensuring macroeconomic stability and steady economic growth;
- (2) targeted structural reforms in the economy;
- (3) forming multi-structured economy and ensuring a leading role of the private the sector;
- (4) further liberalization of foreign economic activity and step-by-step liberalization of the currency market;
- (5) creation of an up-to-date integrated market, production and social infrastructure;
- (6) ensuring stable and dynamic growth of nation's welfare, strengthening social protection of the population.

In letters addressed to the WTO Director-General Mike Moore (May, August 2000) the Government communicated that alongside Uzbekistan's proposals on processes within the framework of the world trading system, the Country was ready to hold the 1st meeting of the Working Party on the accession of Uzbekistan to the WTO. Similar information was addressed to Mr. Alejandro de La Pena – the representative of Mexico to the WTO who is the Chairman of the Working Party. Up to now, proposals on holding a meeting of the Working Party have not been received. One of the possible reasons may be the currently difficult negotiations conducted within the WTO on issues of further liberalization of agriculture,

accession of other countries to the WTO and also preparatory work and approval of the agenda of the next WTO ministerial meeting.

Nevertheless, it should be emphasized that the Government of Uzbekistan is keen on holding in 2001 the 1st meeting of the Working Parties on accession to the WTO.

6. Benefits for Uzbekistan from WTO membership

From a strategic viewpoint, the accession of Uzbekistan to the WTO can be considered as a sign of recognition from the world of the economic, political, and social reforms implemented in the country. WTO membership should lead to the country's effective integration in the world community and particularly in the world trading system.

International experience shows that WTO membership will allow countries to enjoy new rights, access new markets, expand access to existing markets for its goods and services, and protect its own trading interests within the multilateral legal system of the WTO through its special body to settle disputes among the WTO member-states. Accession to the WTO will enable Uzbekistan to obtain MFN status in trade with all other WTO Member States and ensure protection of Uzbek exporters against attempts of other countries to restrict access to their markets.

At the same time, in accordance to the basic WTO principle of national treatment, the country must be committed to treat foreign goods and services and goods and services produced by domestic producers equally. This will certainly create difficulties for Uzbek enterprises as they may not be strong enough to face the increasing competition in the domestic market.

In addition, Uzbekistan as a developing country will be able to obtain the rights to take advantage of the various exceptions and delays in the implementation of some provisions of the WTO Agreements granted to developing countries on the basis of so-called "special and differential treatment". For instance, in case of a threat to its balance of payments, any WTO member state can introduce restrictions on imports and suspend introduction of tariff concessions. Any WTO Member State is entitled to take safeguard measures in the presence of proven threat to the national industry.

With regard to its accession to the WTO, Uzbekistan is undertaking a balanced and comprehensive study of requirements stipulated in the WTO Agreements, in particularly those related to currency controls, tax and customs

regulations, measures on protection of intellectual property rights and also balance of economic interests of WTO member-states.

7. Conclusions and recommendations

In summary, some issues presently discussed within the multilateral trading system and which are vital for developing WTO Member States, need to be emphasized. First of all, it is important to take stock of current tendencies in the development of the world trading system, and in particular the accession to WTO of countries with economies in transition which are not yet a member but have tremendous economic potential. In this context, Uzbekistan supports the so called "WTO Accession Initiative" which aims at maximization of WTO membership by way of accelerated or facilitated accession to this organization.¹²¹

For this purpose it is recommended that WTO Member States should follow a more flexible approach to countries being in the process of accession to the WTO. In this case, the possibility of a differentiated approach to the accession process of new countries, with due regard to their level of economic development should be considered.

During the preparations for the WTO ministerial meeting in Seattle, there was a tendency of developed countries to increase pressure on developing countries and toughen the implementation of rules and procedures of the WTO. Attempts were also made to include issues concerning the interrelation between trade and labour and environmental standards under the WTO.

These tendencies clearly do not reflect the interests of developing countries and countries in transition. It is necessary to point out that many developing countries due to their low level of economic development are not in a position to address problems in the same way as developed countries. Urgent issues for many developing countries, in particular less and least developed countries, are problems of social instability, starvation, poverty, inter-ethnic wars and others.

Countries with economies in transition are also facing challenges which are not less important. These countries have to deal with difficult economic reforms and its social implications.

In essence, developing countries and countries in transition, which are already WTO members, are still struggling to come to terms with their obligations

¹²¹ The countries of the European Union took this initiative. Evidently, they consider that growth in number of WTO members will serve to the further development of international trade and raise the economic level of developing and least developed countries.

resulting from the implementation of existing requirements of the Uruguay Round agreements. In this regard, developed countries should recognize the efforts and difficulties faced by current WTO Member Countries which are also developing countries or countries with economies in transition, and should pursue a more flexible policy towards them. In particular, they should not attempt to expand the range of issues to be discussed under WTO auspices, as the current range is already broad, but instead try to adjust the existing system within the framework of the Uruguay Round.

In this context, it should be noted that many provisions of the Uruguay Round Agreements do not fully address the interests of developing countries and countries in transition, as they could not effectively voice a common position during the last round of multilateral trade negotiations. Therefore, in order to reach a more effective consensus between developed and developing WTO Member States and also countries being in the process of accession to the WTO, it should be reasonable to review the agreements adopted in the Uruguay Round.

To achieve this goal, it is proposed to hold a round of multilateral negotiations within the framework of the WTO with the involvement of all parties concerned, including observer-states, with the objective to review the following:

- (1) Time frames for implementation of any WTO Agreements by developing countries and countries with economies in transition;
- (2) Conditions for accession to markets of products and services provided by industrialized countries to developing countries and countries with economies in transition.

These measures would allow concerned countries the opportunity to adapt their national legislation to WTO norms and principles more easily and also will enable them to raise their economic potential to higher levels of competitiveness.

No doubt the idea may appear to be a step backward and a lot of work but, at the same time, it will better address the interests of the majority of developing countries and countries in transition which will yield positive feedback for the world trading system as a whole.

For the future, the conclusion of an agreement on liberalization of trade in agricultural products is of great importance. In spite of the fact that serious disagreements have emerged on this issue among developed countries, in particular between the European Union and the United States, developing countries would greatly benefit from a liberalization of access of agricultural products to the markets of developed countries. In this context, it is deemed necessary for developed countries to liberalize access of agricultural products to their markets,

including reduction of state subsidies to the agricultural sector and abolition of the quota system.

Trade liberalization in developed countries should also be aimed at facilitating the import of such products as textiles and ready-made garments from developing countries and countries in transition. Also it seems advisable to review the problems of liberalization in the field of telecommunications and e-commerce activities considering the fact that the benefits from this kind of activity are spread unevenly between developed countries and developing countries, mainly because of the poor development of the telecommunications and information infrastructure and lack of relevant qualified personnel in less developed countries. This problem is a main concern for virtually any state: the ones that will not be able to make a timely switch to the usage of new information technologies are at risk to remain a resource and raw materials based dependent of the more developed countries.

In view of these considerations, it seems advisable to discuss the possibility at the multilateral level to grant realistic time frames for the liberalization in the above-mentioned sectors to less developed countries and countries with transitional economies.

Another issue relates to the strict requirements imposed by developed countries on observance of intellectual property rights by less developed countries. There is no doubt that intellectual property rights should be protected in accordance with the adopted international standards. However, in order to achieve the required level of protection of intellectual property rights in less developed countries and countries with economies in transition, it is necessary for them to have a certain transition period. Economic sanctions imposed by developed countries on countries which currently are not capable to apply the requirements for protection of intellectual property rights, are only counterproductive and lead to a deterioration of their economic situation.

Some developed countries have launched initiatives for a revision of the decision-making mechanisms for expansion of the WTO. It is clear that this position will be unacceptable to the majority of developing countries and could result in undermining the reform process of the WTO. Considering that the problems discussed within the framework of the WTO affect national concerns of all countries, the mechanism for decision-making should be based on the principle of consensus, which would admittedly in many cases require considerable efforts.

Finally, special efforts undertaken by the Secretariat of the WTO to maximize the degree of participation from non-resident Member States and observers in the activities of the WTO deserve special attention. A step in the right direction is

the initiative for the creation of a “Unit for Non-Resident Members and Observers of the WTO” in Geneva.¹²² For its part, Uzbekistan completely supports the idea of the creation of such a Center in Geneva. The creation of such a specialized Center would grant capability to non-resident member-states and observer-states of the WTO to become more active in the participation of activities of the organization, and to make decisions more quickly and efficiently on problems within the framework of the multilateral trading system.

Undoubtedly, cooperation of Uzbekistan in the process of WTO accession with other organizations including United Nations agencies would greatly contribute to the positive development of the process.

The ESCAP Subregional Workshop on Accession to WTO – Economies in Transition, for which this paper was prepared, serves as a good example of such cooperation. The workshop could identify solutions to particular problems and afford countries in accession with similar characteristics to share experiences and exchange opinions. However, the Government of Uzbekistan believes that cooperation with ESCAP should not be limited to workshops of this kind only. Uzbekistan would appreciate obtaining assistance through other modalities as well on an ongoing basis, particularly during the process of accession of the country to the WTO. Currently, ESCAP could provide assistance in the following areas:

- fulfillment of Relevant Information Tables within the Concessions on Agricultural Products (WT/ACC/4);
- preparation of answers on Checklist of illustrative SPS issues for consideration in Accessions (WT/ACC/8);
- preparation of answers on Checklist of illustrative TBT issues for consideration in Accessions (WT/ACC/8);
- final preparation of a list of concessions on tariffs in services (WT/ACC/5) and others.

Assistance on these matters could be provided in the form of holding workshops, training courses ect. Besides, regular visits of an ESCAP expert on WTO issues to concerned organizations in Uzbekistan (e.g. Ministry of Foreign Economic Relations) would enable these institutions to receive practical assistance and find solutions to different WTO issues.

¹²² The initiative on the creation of the Unit (October 2000) is promoted by the Agency for International Trade Information and Cooperation (AITIC), which was established by the Government of Switzerland. The purpose of the Unit is to provide assistance to Members and Observers of the WTO lacking the necessary means to establish and maintain permanent trade representation in Geneva.

27. *Trade Effects of Eco-labelling (ST/ESCAP/1792)*
28. *Assistance to Small and Medium-sized Enterprises for Enhancing Their Capacity for Export Marketing (ST/ESCAP/1816)*
29. *Border Trade and Cross-border Transactions of Selected Asian Countries (ST/ESCAP/1824)*
30. *Market Prospects for Pulses in South Asia: International and Domestic Trade (ST/ESCAP/1825)*
31. *Electronic Commerce Initiatives of ESCAP: Business Facilitation Needs (ST/ESCAP/1854)*
32. *Assistance to Economies in Transition in Export Promotion (ST/ESCAP/1808)*
33. *Implications of the APEC Process for Intraregional Trade and Investment Flows (ST/ESCAP/1886)*
34. *Enhancement of Trade and Investment Cooperation in South-East Asia: Opportunities and Challenges Toward ASEAN-10 and Beyond (ST/ESCAP/1882)*
35. *Trade and Investment Complementarities among the South-western Member Countries of ESCAP (ST/ESCAP/1932)*
36. *Trade and Investment Scenarios and Liberalization Agenda for Asia and the Pacific (ST/ESCAP/1965)*
37. *Implications of General Agreement on Trade in Services (GATS) for Asia-Pacific Economies (ST/ESCAP/1926)*
38. *Electronic Commerce Initiatives of ESCAP – Alignment of the Trade Documents of Cambodia, Myanmar and Viet Nam (ST/ESCAP/1892)*
39. *Electronic Commerce Initiatives of ESCAP – International Trade Transaction (ITT) Models as an Aid to the Process of Harmonization (India, Malaysia, Philippines and Sri Lanka (ST/ESCAP/1963)*
40. *Non-tariff Measures with Potentially Restrictive Market Access Implications Emerging in a Post-Uruguay Round Context (ST/ESCAP/2024)*
41. *The Future WTO Agenda and Developing Countries (ST/ESCAP/2047)*
42. *Private Sector Perspectives in the Greater Mekong Subregion (ST/ESCAP/2065)*
43. *Interregional cooperation in trade and investment: Asia-Latin America (ST/ESCAP/2069)*
44. *Enhancing export opportunities through environmentally sound business development (ST/ESCAP/2120)*
45. *Export promotion for Economies in Transition (ST/ESCAP/2107)*
46. *Export competitiveness and sustained economic recovery (ST/ESCAP/2150)*
47. *Regional perspectives on the WTO agenda: concerns and common interests (ST/ESCAP/...)*

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